FEDERAL REGISTER

VOLUME 22 NUMBER 180

Washington, Tuesday, September 17, 1957

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

DEPARTMENT OF AGRICULTURE

Effective upon publication in the FEDERAL REGISTER, paragraph (h) (4) is added to § 6.111 as set out below.

§ 6.111 *Department of Agriculture.* * * *

(h) *Agricultural Marketing Service.* * * *

(4) Until June 30, 1958, Fresh Fruit and Vegetable Inspectors GS–9 and below; one Administrative Assistant GS–7; one Clerk-Stenographer GS–5; and not to exceed six Clerk-Typists GS–4 and below, for employment in the State of Texas to carry out a shipping point inspection program of fresh fruits and vegetables.

(R. S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U. S. C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 57-7602; Filed, Sept. 16, 1957; 8:48 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 6621]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

FREE STATE PRODUCTS, INC., ET AL.

Subpart—*Using, selling, or supplying lottery devices:* § 13.2475 *Devices for lottery selling.*

(Sec. 6, 38 Stat. 721; 15 U. S. C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, Free State Products, Inc., et al., Baltimore, Md., Docket 6621, Aug. 24, 1957]

In the Matter of Free State Products, Inc., a Corporation, and Allen B. Tabakof, and Jules J. Greenspan, Individually and as Officers of Free State Products, Inc.

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a manufacturer in Baltimore with selling punchboards and push cards to manufacturers and dealers for use in the sale of assortments of such merchandise as candy, cigarettes, clocks, razors, cosmetics, clothing, etc.

Following approval of an agreement containing consent order between the parties, the hearing examiner made his initial decision and order to cease and desist which became on August 24 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That the respondent Free State Products, Inc., a corporation, and its officers, and respondents Allen B. Tabakof, Jules J. Greenspan, individually and as officers of said corporation and respondents' agents, representatives and employees, directly or through any corporate or other device, do forthwith cease and desist from:

1. Selling or distributing in commerce, as "commerce" is defined in the Federal Trade Commission Act, push cards, punch boards, or other lottery devices which are designed or intended to be used in the sale and distribution of merchandise to the public by means of a game of chance, gift enterprise or lottery scheme.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: August 23, 1957.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F. R. Doc. 57-7600; Filed, Sept. 16, 1957; 8:48 a. m.]

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FEDERAL REGISTER

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TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs

[T. D. 54435]

PART 22—DRAWBACK

MISCELLANEOUS AMENDMENTS

Section 22.7 (c) of the Customs Regulations now provides that the collector shall, upon receipt of a notice of exportation, assign a number thereto which

shall be the same as the number assigned to the corresponding shipper's export declaration. Under certain circumstances the collector is no longer required to assign a number to the shipper's export declaration, and there has been some question whether the collector should in such a case assign a number to the notice of exportation. In order to clarify this point and insure that a number is in each instance assigned to a notice of exportation, § 22.7 is amended as follows:

1. Paragraph (b) is amended by inserting ", if any," after the word "number" in the first sentence.

2. The first sentence of paragraph (c) is deleted and the following is substituted therefor: "Upon receipt of the notice of exportation, the collector shall assign a number thereto which shall be stamped or endorsed on the original and each copy of the notice. If a number has been assigned to the corresponding shipper's export declaration, the same number shall be assigned to the notice of exportation."

3. The following sentence is inserted in paragraph (c) after the present second sentence: "However, if no number has been assigned to the shipper's export declaration, each notice of exportation shall be separately numbered."

(Secs. 313, 624, 46 Stat. 693, as amended, 759; 19 U. S. C. 1313, 1624)

[SEAL] RALPH KELLY,
Commissioner of Customs.

Approved: September 10, 1957.

DAVID W. KENDALL,
Acting Secretary of the Treasury.

[F. R. Doc. 57-7611; Filed, Sept. 16, 1957; 8:49 a. m.]

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

Subchapter A—General

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

TERMINATION OF EXEMPTION FOR DESIGNATED FOODS FOR WHICH LABEL DECLARATION OF INGREDIENTS HAS NOT BEEN REQUIRED PENDING STANDARDIZATION

Prior to the effective date of the Federal Food, Drug, and Cosmetic Act, the Secretary of Agriculture, under authority of that act (sec. 902 (a) (2), 52 Stat. 1059; 21 U. S. C. 392 (a) (2)), designated a number of foods that were exempted from the requirement of label declaration of ingredients in section 403 (i) (2) of the act (4 F. R. 956). It was stated that the exemption as to any food might be revoked at any time by publication of a notice in the FEDERAL REGISTER, and it was further stated that any such revocation would become effective on the ninetieth day after publication of such notice unless a later date was specified in the notice.

After the Federal Food, Drug, and Cosmetic Act became effective, the Commissioner of Food and Drugs, in a notice dated January 21, 1941, listed the foods exempt from the requirement as to label declaration of ingredients made by section 403 (i) (2) of the act, pending standardization of the foods and stated that formal extension of the time for the termination of the exemptions was not contemplated. The Commissioner's notice added that it was not the purpose of the Food and Drug Administration to inaugurate action against the listed foods on the ground that they were in violation of the provisions of section 403 (i) (2) of the act pending the effective date of definitions and standards of identity or of an announcement terminating the exemptions.

Most of the foods listed in the Commissioner's notice have since been standardized but some remain unstandardized. It has now been concluded that the exemption from label declaration of ingredients requirements of section 403 (i) (2) of the act should be terminated for each food on the exempt list, with the exception of the following:

Ice cream; frozen custard; ice milk; milk sherbet; water ice or ice sherbet.
Nonalcoholic carbonated beverages.
Vanilla extract.

Now, therefore, pursuant to authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 701, 52 Stat. 1055; 21 U. S. C. 371) and delegated to the Commissioner of Food and Drugs (22 F. R. 1045), and in conformity with the Administrative Procedure Act (sec. 3, 60 Stat. 237; 5 U. S. C. 1002), the following statement of policy is issued:

§ 3.1 *Termination of exemption for designated foods for which label declaration of ingredients has not been required pending standardization.* Effective 1 year after the date of publication of this statement of policy in the FEDERAL REGISTER, the exemption from the label declaration of ingredients requirements of section 403 (i) (2) of the Federal Food, Drug, and Cosmetic Act is terminated for the following foods:

Canned clams; canned fish roe; canned shrimp (dry and wet pack).
Lemon extract; orange extract.
Malted milk.
Olives in brine.
Sauerkraut.
Unmixed canned fruits, properly prepared and in sugar solution of not less than 20° Brix, not in excess of the amount necessary for proper processing, but with no other added substance.
Unmixed immature canned vegetables, properly prepared and with water not in excess of the amount necessary for proper processing, with or without added salt or sugar or both, but with no other added substance.

(Sec. 701, 52 Stat. 1055, as amended; 21 U. S. C. 371)

Dated: September 10, 1957.

[SEAL] JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F. R. Doc. 57-7577; Filed, Sept. 16, 1957; 8:45 a. m.]

Subchapter C—Drugs

PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

PART 146e—CERTIFICATION OF BACITRACIN AND BACITRACIN-CONTAINING DRUGS

MISCELLANEOUS AMENDMENTS

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; sec. 701, 52 Stat. 1055, as amended; 21 U. S. C. 357, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (22 F. R. 1045), the regulations for the certification of antibiotic and antibiotic-containing drugs (21 CFR, Parts 146a, 146e; 21 CFR, 1956 Supp., 146a.109; 22 F. R. 6338) are amended as follows:

1. Section 146a.109 *Benzathine penicilllin V oral suspension* * * * is amended by deleting paragraph (b) and renumbering paragraph (c) as paragraph (b).

2. Section 146e.420 *Bacitracin-tyrothricin-neomycin troches* * * * is amended in the following respects:

a. Paragraph (c) is revised to read as follows:

(c) They may contain cortisone or a suitable derivative of cortisone and one or more suitable antitussive drugs.

b. Paragraph (d) is revised to read as follows:

(d) In addition to the labeling prescribed for bacitracin-neomycin troches and zinc bacitracin-neomycin troches, each package shall bear on the outside wrapper or container and the immediate container the number of milligrams of tyrothricin in each troche of the batch, and if it contains cortisone or a derivative of cortisone or one or more antitussive drugs, the name and quantity of each such substance.

c. Paragraph (e) is revised to read as follows:

(e) In lieu of the labeling prescribed by § 146e.403 (c) (2), if it does not contain cortisone or a suitable derivative of cortisone or one or more antitussive drugs, it shall bear on the circular or other labeling within or attached to the package, adequate directions and warnings for the use of such drugs. Such circular or other labeling may also bear a statement that a brochure or other printed matter containing information for other uses of such troches by practitioners licensed by law to administer such drug will be sent to such practitioner upon request.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since it was drawn in collaboration with interested members of the affected industry and since it would be against public interest to delay providing for the amendments set forth above.

Effective date. This order will become effective upon publication in the FEDERAL REGISTER.

(Sec. 701, 52 Stat. 1055, as amended; 21 U. S. C. 371. Interpret or apply sec. 507, 59 Stat. 463, as amended; 21 U. S. C. 357)

Dated: September 11, 1957.

[SEAL] GEO. P. LARRICK,
Commissioner of Food and Drugs.

[F. R. Doc. 57-7607; Filed, Sept. 16, 1957; 8:49 a. m.]

TITLE 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 20—SPECIAL REGULATIONS

GRAND CANYON NATIONAL PARK

1. Paragraphs (a), (b), (c), (d), and (e) of § 20.4 *Grand Canyon National Park* are amended to read as follows:

§ 20.4 *Grand Canyon National Park*—(a) *Limitations on load, weight, and size of vehicles.* Any vehicle operated or moved upon any road within the boundaries of Grand Canyon National Park shall comply with the following height, weight, and load limitations:

(1) No vehicle including any load thereon shall exceed a height of thirteen feet six inches.

(2) No vehicle including any load thereon shall exceed a length of forty feet extreme overall dimensions, inclusive of front and rear bumpers.

(3) No combination of vehicles coupled together shall consist of more than two units except that a truck tractor and semi-trailer will be permitted to haul one full trailer and no such combination of vehicles shall exceed a total length of sixty-five feet.

(4) (i) The gross weight imposed on the highway by the wheels of any one axle of a vehicle shall not exceed eighteen thousand pounds.

(ii) For the purposes of this section an axle load means the total load transmitted to the road by all wheels whose centers are included between two parallel transverse verticle planes forty inches apart, extending across the full width of the vehicle.

(5) Subject to the limit upon the weight imposed upon the road through any one axle as set forth in subparagraph (4) of this paragraph, the total gross weight with load imposed upon the road by any one group of two or more consecutive axles of a vehicle or combination of vehicles shall not exceed the gross weight given for the respective distance between the first and last axle of the group of axles measured longitudinally to the nearest foot as set forth in the following table:

Distance in feet between first and last axles of group:	*Allowed load in pounds on group of axles*
4	32,000
5	32,000
6	32,200
7	32,900
8	33,600
9	34,300
10	35,000
11	35,700
12	36,400
13	37,100
14	43,200
15	44,000
16	44,800
17	45,600
18	46,400

(6) The total gross weight with load imposed on the road by any vehicle or combination of vehicles where the distance between the first and last axles is more than eighteen feet shall not exceed that given for the respective distances in the following table:

Distance in feet:	*Allowed load in pounds*
18	46,400
19	47,200
20	48,000
21	48,800
22	49,600
23	50,400
24	51,200
25	55,250
26	56,100
27	56,950
28	57,800
29	58,650
30	59,500
31	60,350
32	61,200
33	62,050
34	62,900
35	63,750
36	64,600
37	65,450
38	66,300
39	67,150
40	68,000
41	68,000
42	68,000
43	68,000
44	68,000
45	68,000
46	68,800
47	69,600
48	70,400
49	71,200
50	72,000
51	72,800
52	73,600
53	74,400
54	75,200
55	76,000
56 or over	76,800

(7) The distance between axles shall be measured to the nearest even foot. When a fraction is exactly one-half foot the next larger whole number shall be used.

(8) *Provided, however,* That a horse-drawn vehicle equipped with metal tires may be operated when the weight of such vehicle including any load thereon does not exceed 700 pounds upon any inch in width of tire.

(9) *Provided, further,* That the provisions of this paragraph shall not apply to traction engines or tractors the propulsive power of which is exerted, not through wheels resting upon the ground, but by means of a flexible band or chain known as a movable track when the portions of the movable tracks in contact with the surface of the roadway present plane surfaces.

(b) *Flanges, ribs, clamps.* There shall not be operated or moved upon any road within the boundaries of Grand Canyon National Park any vehicle of any kind the face of the wheel or wheels of which are fitted flanges, ribs, clamps, cleats, lugs, spikes, or any device which may tend to damage the roadway. This paragraph applies to all rings or flanges upon guiding or steering wheels on any such vehicle, but it shall not be construed to prevent the use of ordinary detachable tire or skid chains.

(c) *Weighing by Park officers.* Any officer of Grand Canyon National Park having reason to believe that the weight of a vehicle and load is unlawful and not in conformity with the regulations, is authorized to weigh the same either by portable or by stationary scales and may require that such vehicle be driven to the nearest scales in the event such scales are within 5 miles. The officer may then require the driver to unload immediately such portions of the load as may be necessary to decrease the gross weight of such vehicle to the maximum therefor specified in paragraphs (a), (b), and (c) of this section.

(d) *Special permits.* The Superintendent of Grand Canyon National Park may, in his discretion, upon application in writing and good cause being shown therefor, issue a special permit in writing authorizing the applicant to operate or move a vehicle of a size or weight exceeding the maximum specified in the foregoing paragraphs upon any Park highway. Every such permit shall be issued for a single trip and may designate the route to be traversed and contain any other restrictions or conditions deemed necessary by said Superintendent. Every such permit shall be carried in the vehicle to which it refers and shall be open to inspection by any Park officer.

(e) *Reduction of load and tire limitations.* Whenever by reason of rains, thawing snow or frost, or as a result of any other cause, any Park road or roads are in a soft condition or are unsuitable for heavy traffic, the Superintendent of Grand Canyon National Park may, in his discretion and for so long a period as he deems advisable, reduce the load capacity limitations or he may prohibit all hauling if the condition of any road so warrants.

(Sec. 3, 39 Stat. 535, as amended; 16 U. S. C. 3)

Issued this 26th day of August 1957.

JOHN S. MCLAUGHLIN,
Superintendent,
Grand Canyon National Park.

[F. R. Doc. 57-7598; Filed, Sept. 16, 1957; 8:47 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 3—VETERANS CLAIMS

PERSONS INCLUDED IN THE ACTS IN ADDITION TO COMMISSIONED OFFICERS AND ENLISTED MEN; ALIEN BENEFICIARIES

In § 3.1, paragraph (j) is amended to read as follows:

§ 3.1 *Persons included in the acts in addition to commissioned officers and enlisted men.* * * *

(j) *Alien beneficiaries.* A veteran discharged for alienage during a period of hostilities is ineligible for benefits unless he can establish that it was not pursuant to his own request. A veteran who was

discharged for alienage after the termination of hostilities and whose service was honest and faithful is not barred from benefits if he is found to be otherwise entitled thereto. Where the character of the veteran's discharge was changed to honorable by a board established under the authority contained in section 301, Public Law 346, 78th Congress, as amended, or section 207, Public Law 601, 79th Congress, as amended, prior to January 7, 1957, it will be considered that the discharge for alienage was not issued at the veteran's own request.

(Sec. 5, 43 Stat. 608, as amended, sec. 2, 46 Stat. 1016, sec. 7, 48 Stat 9; 38 U. S. C. 11a, 426, 707)

This regulation is effective September 17, 1957.

[SEAL] JOHN S. PATTERSON,
Deputy Administrator.

[F. R. Doc. 57-7612; Filed, Sept. 16, 1957; 8:50 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Appendix—Public Land Orders

[Public Land Order 1502]

[Anchorage 031940]

ALASKA

CORRECTING LAND DESCRIPTION IN PUBLIC LAND ORDER NO. 1457 OF JULY 31, 1957

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

The tie to Corner No. 9 of Air Navigation Site Withdrawal No. 169 of June 19, 1950, described as bearing "approximately S. 22°00' W., 1598 feet" in the land description for the Naknek Area in Public Land Order No. 1457 of July 31, 1957 (F. R. Doc. 57-6434; 22 F. R. 6300-01) is hereby corrected to read "bears approximately S. 31°00' W., 785 feet".

ROGER ERNST,
Assistant Secretary of the Interior.

SEPTEMBER 10, 1957.

[F. R. Doc. 57-7592; Filed, Sept. 16, 1957; 8:46 a. m.]

[Public Land Order 1503]

[Fairbanks 012783]

ALASKA

WITHDRAWING PUBLIC LANDS IN ALASKA FOR USE OF DEPARTMENT OF THE ARMY FOR MILITARY PURPOSES

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Subject to valid existing rights, the following-described public lands in Alaska are hereby withdrawn from all forms of appropriation under the public land laws, including the mining and mineral-leasing laws, but excepting disposals under the Materials Act of July 31, 1947 (61 Stat. 681; 69 Stat. 637; 30 U. S. C. 601-604) as amended, and reserved for use of the Department of the Army for military purposes:

Beginning at a point on the easterly bank of the Delta River from which USC and GS monument "Rapids Airport", latitude 63°32' 02.168" N., longitude 145°51'34.005" W., bears N. 17°30' W., 3,278 feet, thence
East, 1 mile;
South, ¾ mile;
West, to the east bank of the Delta River;
North, along the east bank of the Delta River to point of beginning.

The tract described contains 480 acres.

It is the intent of this order that the withdrawn minerals in the lands shall remain under the jurisdiction of the Department of the Interior, and no disposition shall be made of such minerals except under the applicable United States mining and mineral-leasing laws, and then only after such modification of the provisions of this order as may be necessary to permit such disposition.

ROGER ERNST,
Assistant Secretary of the Interior.

SEPTEMBER 10, 1957.

[F. R. Doc. 57-7593; Filed, Sept. 16, 1957; 8:46 a. m.]

[Public Land Order 1504]

ARIZONA, COLORADO, NEW MEXICO

RESERVING LANDS IN NATIONAL FORESTS FOR USE OF FOREST SERVICE AS RECREATION AREAS AND ROADSIDE ZONES

By virtue of the authority vested in the President by the act of June 4, 1897 (30 Stat. 34, 36; 16 U. S. C. 473) and otherwise, and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Subject to valid existing rights the following-described public lands within the national forests hereinafter designated are hereby withdrawn from all forms of appropriation under the public land laws, including the mining but not the mineral leasing laws nor the act of July 31, 1947 (61 Stat. 681; 30 U. S. C. 601-604) as amended, and reserved for use of the Forest Service, Department of Agriculture, as indicated:

[Arizona 014372]

ARIZONA

PRESCOTT NATIONAL FOREST

Gila and Salt River Meridian

Lynx Recreation Area:

T. 13 N., R. 1 W.,
Sec. 8, S½NE¼, SE¼NW¼, SE¼, and E½SW¼;
Sec. 9, W½SW¼SW¼;
Sec. 16, W½NW¼NW¼;
Sec. 17, N½NE¼.
The areas described aggregate 480 acres.

[Colorado 016655]

COLORADO

PIKE NATIONAL FOREST

Sixth Principal Meridian

Pikes Peak Summit Recreation Area:

Beginning at a point for the southwest corner of the station ground easement and the southeast corner of area withdrawn for use of the Forest Service, Department of Agriculture, as the Pikes Peak Summit Recreation Area by Public Land Order No. 1171 of June 24, 1955 located in the S½ of Sec. 7, T. 14 S., R. 68 W., 6th P. M.; thence
Easterly, 400 feet along a line parallel to and extension of the south boundary of area withdrawn by Public Land Order No. 1171, to the west boundary of the right-of-way of the Pikes Peak R. R., thence
Northerly, 578.2 feet along said west right-of-way, thence
Westerly, 400 feet on a line at right angle to said west right-of-way to the northeast corner of the area withdrawn by Public Land Order No. 1171 thence
Southerly, 510.2 feet along east boundary of area withdrawn by Public Land Order No. 1171 to point of beginning.
The area described contains 5 acres.

[New Mexico 020007]

NEW MEXICO

LINCOLN NATIONAL FOREST

New Mexico Principal Meridian

Sacramento Peak Road (Air Force Service Road) Roadside Zone:

A strip of land 300 feet on each side of the center line of the Sacramento Peak Road through the following subdivisions:
T. 16 S., R. 12 E.,
Sec. 6, lot 26, W½NE¼SE¼, W½SE¼, SE¼SW¼;
Sec. 7, lots 1, 3, and 5.
T. 16 S., R. 11 E.,
Sec. 13, W½SE¼, S½SW¼;
Sec. 24, lots 3, and 4;
Sec. 35, S½NE¼, E½SE¼.
T. 17 S., R. 11 E.,
Sec. 1, lot 4, SW¼NW¼;
Sec. 2, lot 1.
The areas described aggregate approximately 123 acres.

Cox Canyon (State Route No. 24) Highway, Roadside Zone:

A strip of land 500 feet on each side of the center line of State Highway No. 24 through the following subdivisions:
T. 16 S., R. 12 E.,
Sec. 6, lots 16, 17, NE¼SE¼.
The areas described aggregate approximately 30 acres.

This order shall take precedence over but not otherwise affect the existing reservation of the lands for national forest purposes.

ROGER ERNST,
Assistant Secretary of the Interior.

SEPTEMBER 10, 1957.

[F. R. Doc. 57-7594; Filed, Sept. 16, 1957; 8:46 a. m.]

[Public Land Order 1505]

[73537]

NEVADA

POWER SITE RESTORATION NO. 531; PARTIALLY REVOKING EXECUTIVE ORDER OF JULY 2, 1910, WHICH CREATED POWER SITE RESERVE NO. 113

By virtue of the authority vested in the President by section 1 of the act of June 25, 1910 (36 Stat. 847; 43 U. S. C. 141), and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

1. The Executive Order of July 2, 1910, so far as it withdrew the following-described lands in Nevada as Power Site Reserve No. 113, is hereby revoked:

MOUNT DIABLO MERIDIAN

T. 44 N., R. 61 E.,
Sec. 2, lots 1, 2, 3, 4, S½N½, SW¼, and NW¼SE¼;
Sec. 3, NE¼SE¼ and S½SE¼;
Sec. 10, NW¼NE¼, S½NE¼, E½SW¼, and SE¼;
Sec. 11, NW¼, N½SW¼, and SW¼SW¼;
Sec. 15, N½, SW¼, and NW¼SE¼.
T. 45 N., R. 61 E.,
Sec. 25, SW¼NE¼ and S½;
Sec. 35, SE¼.
T. 45 N., R. 62 E.,
Sec. 17, SE¼SW¼ and S½SE¼;
Sec. 19, NE¼, SE¼SW¼, N½SE¼, and SW¼SE¼;
Sec. 20, NE¼NE¼, S½NE¼, NW¼NW¼, and S½NW¼;
Sec. 21, NE¼, N½NW¼, and NE¼SE¼;
Sec. 22, S½NW¼ and S½;
Sec. 23, SW¼;
Sec. 25, SW¼SW¼;
Sec. 26, NW¼NE¼, S½NE¼, NW¼, N½SW¼, and SE¼;
Sec. 27, NE¼NE¼;
Sec. 35, NE¼ and NE¼SE¼.
T. 44 N., R. 63 E.,
Sec. 5, SE¼NW¼, SW¼, and W½SE¼;
Sec. 8, NW¼NE¼, S½NE¼, NW¼, N½SW¼, and SE¼;
Sec. 9, SW¼NW¼ and W½SW¼.
T. 45 N., R. 63 E.,
Sec. 31, lots 1, 2, 3, 4, NE¼NW¼, E½SW¼, and SW¼SE¼.

The areas described aggregate 5,866 acres.

2. The lands are located in northeastern Elko County, Nevada, along the western tributaries of Salmon Falls Creek, northwest of and in the vicinity of Henry, Nevada. The topography is rough and mountainous except for small areas along the creek bottom which support good stands of grass. The general vegetative species are sagebrush and bunch grass, and the entire area is chiefly valuable for grazing purposes.

3. No application for the lands may be allowed under the homestead, desert-land, small tract, or any other nonmineral public-land law unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon the consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

4. Subject to any valid existing rights and the requirements of applicable law, the lands are hereby opened to filing of applications, selections, and locations in accordance with the following:

a. Applications and selections under the nonmineral public-land laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications and selections will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications under the Homestead, Desert Land, and Small Tract Laws by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279–284 as amended), presented prior to 10 a. m. on October 16, 1957, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10 a. m. on January 15, 1958, will be governed by the time of filing.

(3) All valid applications and selections under the non-mineral public-land laws, other than those coming under paragraph 4 (a) (1) and 4 (a) (2) above, presented prior to 10 a. m. on January 15, 1958, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

b. The lands have been open to applications and offers under the mineral-leasing laws. They also have been open to location under the U. S. mining laws pursuant to the provisions of the act of August 11, 1955 (69 Stat. 683; 30 U. S. C. 621).

5. Persons claiming veterans preference rights must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

6. The restored lands shall be subject until 10 a. m. on January 15, 1958, to application by the State of Nevada, under any statute or regulation applicable thereto, for rights-of-way for public highways or as a source of material for the construction and maintenance of such highways pursuant to section 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1075; 16 U. S. C. 818) as amended.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Reno, Nevada.

ROGER ERNST,
Assistant Secretary of the Interior.

SEPTEMBER 10, 1957.

[F. R. Doc. 57-7595; Filed, Sept. 16, 1957; 8:46 a. m.]

[Public Land Order 1506]

[142795]

NEVADA

PARTIALLY REVOKING EXECUTIVE ORDER NO. 1354 OF MAY 16, 1911, WHICH RESERVED PUBLIC LANDS FOR USE OF DEPARTMENT OF AGRICULTURE AS BAKER ADMINISTRATIVE SITE

By virtue of the authority vested in the President by section 1 of the act of June 25, 1910 (36 Stat. 847; 43 U. S. C. 141), and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

1. Executive Order No. 1354 of May 16, 1911, which withdrew certain lands in Nevada for use of the Forest Service, Department of Agriculture as the Baker Administrative Site, is hereby revoked so far as it affects the following-described lands:

MOUNT DIABLO PRINCIPAL MERIDIAN

T. 13 N., R. 70 E.,
Sec. 9, N½NW¼SE¼NW¼, SE¼NW¼SE¼NW¼, SW¼SE¼NW¼, and SW¼SE¼SE¼NW¼.

The areas described contain 20 acres.

2. The lands are situated near the town of Baker in eastern White Pine County, Nevada. They are accessible by hard surfaced roads between U. S. Highway No. 6 and Lehman Caves. It is in a rather isolated area.

3. No application for the lands may be allowed under the homestead, desert-land, small tract, or any other nonmineral public-land law unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon the consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

4. Subject to any valid existing rights and the requirements of applicable law, the lands are hereby opened to filing of applications, selections, and locations in accordance with the following:

a. Applications and selections under the nonmineral public-land laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications and selections will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications under the Homestead, Desert Land, and Small Tract Laws by qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279–284 as amended), presented prior to 10:00 a. m. on October 17, 1957, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a. m. on January 16, 1958, will be governed by the time of filing.

(3) All valid applications and selections under the nonmineral public-land laws, other than those coming under paragraphs (1) and (2) above, presented prior to 10:00 a. m. on January 16,

1958, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

5. The lands have been open to applications and offers under the mineral-leasing laws, and to location for metalliferous minerals. They will be open to location for non-metalliferous minerals under the U. S. mining laws beginning at 10:00 a. m. on January 16, 1958.

Persons claiming veterans preference rights must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Reno, Nevada.

ROGER ERNST,
Assistant Secretary of the Interior.

SEPTEMBER 11, 1957.

[F. R. Doc. 57-7596; Filed, Sept. 16, 1957; 8:47 a. m.]

[Public Land Order 1507]

ALASKA

WITHDRAWING PUBLIC LANDS FOR RECREATIONAL PURPOSES

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Subject to valid existing rights, the following-described public lands in Alaska are hereby withdrawn from all forms of appropriation under the public land laws, including the mining but not the mineral-leasing laws or the act of July 31, 1947 (61 Stat. 681; 69 Stat. 367; 30 U. S. C. 601-604) as amended, and reserved under the jurisdiction of the Secretary of the Interior, for administration or transfer in accordance with the provisions of the act of May 4, 1956 (70 Stat. 130):

[Fairbanks 010571]

U. S. SURVEY No. 3299

TRACT 4, LOT 31

The tract described contains 26.39 acres.

[Anchorage 029474]

LAKE LOUISE RECREATION AREA NO. 1

U. S. SURVEY NO. 3483

Tract "A", lots 1, 2, 5, 6, and the northern 25.65 acres of lot 4.

The tracts described contain 481.90 acres.

LAKE LOUISE RECREATION AREA NO. 2

Two parcels of land lying between Lake Louise and Lake Susitna, one on either side of a stream connecting Lake Louise and Lake Susitna more particularly described as follows:

PARCEL "A"

Beginning at the point of the outlet of Lake Louise, approximate latitude 62°21'31" N., longitude 146°37'30" W., thence
Southwesterly, 680 feet along mean high water line of Lake Louise to a point which is the NE corner of a T and M site location (Anchorage 027167);
West, 400 feet to the mean high water line of Lake Susitna;
Northeasterly, 686 feet along line of mean high water to western end of a stream extending from Lake Louise to Lake Susitna;
Easterly, 2,218 feet along south limit of stream to point of beginning.
The tract described contains approximately 11 acres.

PARCEL "B"

Beginning at the point of the outlet of Lake Louise, approximate latitude 62°21'30" N., longitude 146°37'30" W., thence
Northerly and Westerly, 2,218 feet along north limit of the stream from Lake Louise to Lake Susitna to the line of mean high water of Lake Susitna;
Northerly and Easterly, 3,810 feet along line of mean high water to the east limit of a cove of Lake Susitna and the mouth of a stream;
Easterly, 370 feet along south limit of stream to an unnamed lake;
Easterly, 1,056 feet along line of mean high water of lake;
S. 45° E., 1,426 feet to line of mean high water of Lake Louise;
Southwesterly and Northerly, 2,957 feet along line of mean high water to point of beginning.
The tract described contains approximately 125 acres.

ROGER ERNST,
Assistant Secretary of the Interior.

SEPTEMBER 11, 1957.

[F. R. Doc. 57-7597; Filed, Sept. 16, 1957; 8:47 a. m.]

TITLE 46—SHIPPING

Chapter II—Federal Maritime Board, Maritime Administration, Department of Commerce

Subchapter B—Regulations Affecting Maritime Carriers and Related Activities

[Amdt. 2]

PART 221—DOCUMENTATION, TRANSFER OR CHARTER OF VESSELS

STATEMENT OF POLICY

Effective as of September 6, 1957, the Statement of Policy appearing in the FEDERAL REGISTER issue of November 8, 1956 (21 F. R. 8588), as amended (22 F. R. 4289), is further amended as follows:

1. In section I B by deleting the following paragraph under heading *"Trade-out-and-build" programs:*

NOTE: Transfers to foreign ownership and/or registry of the above types of U. S. flag vessels will NOT be approved in conjunction with construction programs involving jumboizing, modernization, or other types of conversion, of existing U. S. flag merchant ships.

And by substituting in lieu thereof, the following:

Transfers to foreign ownership and/or registry of the above types of U. S. flag vessels WILL be approved in conjunction with construction programs involving jumboizing, modernization, or other types of conversion of existing U. S. flag merchant ships, subject to the conditions specified in section I B, section III A and D, except that all of the provisions therein set forth as applicable to a "new vessel" shall be applicable to a converted vessel, and the following additional condition:

That the vessels as converted shall be documented under U. S. laws and shall be used exclusively in the domestic coastwise, intercoastal and/or non-contiguous territorial trades, unless otherwise approved by the Maritime Administration.

Each application involving jumboizing, modernization, or other types of conversion, will be considered on its individual merits and the number of vessels approved for transfer to foreign ownership and registry in consideration for such programs will depend upon the type, extent and cost of the work to be performed.

2. By renumbering item "4" of existing text in sections III A and III B to "5" and inserting in each of said sections a new item "4" reading as follows:

4. *Subordination of mortgage.* Any mortgage given by the foreign corporate buyer, or any subsequent transferee, on the transferred vessel shall unless the Administrator, for good cause shown, shall waive this requirement, include the provision that, if said vessel is sold or reclaimed pursuant to a foreclosure or judicial sale under the mortgage, such sale or transaction shall be subject to and include the provisions of the approval notice and agreement and the foreign corporate buyer, or any subsequent transferee, executing any such mortgage, shall forthwith deposit an executed copy thereof with the Maritime Administration.

3. Item 5 of sections III A and III B is amended by inserting "or 4" after "1 or 2 or 3."

(Sec. 19, 41 Stat. 995, as amended, sec. 204, 49 Stat. 1987, as amended; 46 U. S. C. 876, 1114)

Dated: September 6, 1957.

CLARENCE G. MORSE,
Maritime Administrator.

[F. R. Doc. 57-7509; Filed, Sept. 16, 1957; 8:45 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 903]

[Docket No. AO-10-A22]

MILK IN ST. LOUIS, MISSOURI MARKETING AREA

NOTICE OF RECOMMENDED DECISION AND OPPORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk, of this recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposed amendments to the tentative marketing agreement, and order regulating the handling of milk in the St. Louis, Missouri, marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D. C., not later than the close of business the 15th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order, were formulated, was conducted at St. Louis, Missouri, during March 12–15, 1957, pursuant to notice thereof which was issued March 1, 1957 (22 F. R. 1439).

The material issues on the record of the hearing related to:

1. The definition of a cooperative association;
2. Diversion of milk directly from farms to nonpool plants;
3. The conditions under which bulk tank reload points should qualify for location adjustments;
4. Pool plant standards;
5. Status of dairy farmers primarily associated with other markets;
6. Cooperative association as handler with respect to bulk tank milk;
7. Accounting for inventories of products in fluid form;
8. Accounting for milk equivalent of concentrated products;
9. Classification of milk transferred to nonpool plants;
10. Readjustment of seasonal movement of Class I price;
11. Reduction of Class II price;
12. Changes in location adjustments to handlers and producers;
13. Providing for equivalent prices when specified prices are not available;
14. Pricing of milk sold in marketing areas subject to other Federal orders;
15. Compensatory payments on other source milk;
16. Designation by market administrator of membership in cooperative associations;
17. Interest on overdue payments; and
18. Deduction of cooperative association dues from handlers' payments to producers.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Definition of cooperative association.* A section defining a cooperative association should be included in the order. This will facilitate subsequent order references to qualified associations and will apply to all functions of a cooperative association under the order. The definition should limit qualification to those cooperative marketing associations of producers which are qualified under the Capper-Volstead Act.

Present provisions. The general standard for qualifying a cooperative association for the performance of specific functions under the order is set forth at present in § 903.88 (b) of the order. This section deals with certain marketing services, as specified in paragraph (a) of the section, which are performed by associations qualified under the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act". Cooperative associations meeting the standard set forth in § 903.88 (b) are referred to in several other sections of the order. For example, in § 903.6 (b), defining producer, it is specified that a producer may maintain his status as such during periods when his milk is diverted to a nonpool plant by a cooperative association. In § 903.12 (c), a cooperative association is authorized to act as the handler on milk diverted to a nonpool plant. In § 903.22 (k), cooperative associations may request that they be notified of the utilization percentages of handlers to whom their members deliver milk. In § 903.32 cooperatives are entitled to receive payroll information from the handlers and in § 903.80 (b), they are entitled to collect payments for milk for their members. In addition to these specific references to cooperative associations, meeting the conditions of § 903.88 (b), associations may vote for their entire membership on the order, on amendments to the order, or concerning the termination of an order. The Act also authorizes cooperatives which meet the Capper-Volstead standard to reblend proceeds from the sales of milk.

Standard to be used. It is appropriate to provide a definition of "cooperative association" which will serve to identify it as an association of producers, in contrast to producers acting individually in the marketing of milk, and as a milk marketing agency with specific functions under the order.

The adoption of a definition separate and apart from other provisions of the order, in which use will be made of it, will serve to clarify order language and eliminate the need for the numerous cross references to § 903.88 (b) now contained in various provisions.

Proposed bases, or standards, for qualifying cooperative associations to perform certain specific functions under the order were offered at the hearing. One of these proposals would define a qualified cooperative as one which is bona fide engaged in marketing producer milk, or in rendering services or advancing the interests of the producers of such milk. The second proposal would employ the "Capper-Volstead" standard modified by the following requirements: (1) The association would have to be governed by the one member-one vote principle, and (2) it would have to exercise full authority in the sale of the milk of its members "consistent with good marketing practices which will bring about the highest possible utilization of its members' milk." The third proposal would qualify an association which operates facilities for receiving, weighing, cooling and shipping Class I milk and for processing milk into Class II products.

One of the generally available means of defining a cooperative association is the ascertainment, as provided in the act for certain purposes, as to whether the association meets the provisions of the Capper-Volstead Act. The act relates primarily to antitrust activities but provides a general basis for defining cooperatives, including milk marketing cooperatives.

The standards provided by the latter statute are equally applicable whether the cooperative (1) performs one or more specific functions under the order, such as the operation of a pool plant, the performance of check-weighing and check-testing services on milk, the reblending of market proceeds, or the collection of monies due members, or (2) does not perform the above functions under specific order terms but nevertheless acts on behalf of members by voting on behalf of its members, bargaining for its members with respect to hauling rates, prices and other terms of sale, and actively representing its members at public hearings to promulgate or amend the Federal order. The general standard provided by the "Capper-Volstead Act" is in accord with the general purposes of, and privileges granted to cooperatives by, the Agricultural Marketing Agreement Act of 1937, as amended. Proposed revisions of the order as submitted for hearing would require the Secretary to make special interpretation of the Capper-Volstead Act for the limited purpose of applying it to St. Louis order situations. It is believed that such an interpretation would influence the application of that act for other programs and such interpretation is therefore not being made.

Conclusions. It is concluded that the standard for qualifying a cooperative association contained in the present order, together with the review involved in designation by the Secretary, is appropriate for the various functions performed by such associations and should be the basis for qualification contained in the new definition of "cooperative association".

Application of definition. The general definition of cooperative association would then be applicable to any specific function performed by an association. If, for example, a qualified association diverted milk to a nonpool plant, it would become the responsible handler with respect to such milk. If it performed the specified marketing service functions of check-weighing, check-testing, and furnishing market information to its members, the market administrator would not perform duplicate services and would not make his deduction.

This would differ somewhat from the present provisions of the order. Now, only those associations which perform market services are qualified as cooperative associations with respect to the other functions. Under the revised order, any association meeting the general qualifications could qualify to perform any of the operating functions.

2. *Diversion to nonpool plants.* The diversion provision should not be amended except to clarify that the 15-day limit applies to production days.

The present order provides that either proprietary handlers or cooperative associations may divert milk to a nonpool plant any time during the flush months of March through July and further provides that only cooperative associations may divert milk to nonpool plants on not more than 15 days during any month from August through February.

There were two proposals, both by cooperative associations, for changing these provisions. One proposal would grant any cooperative unlimited diversion privilege, but would retain the present provision for proprietary handlers to divert during the flush months. The other proposal would allow unlimited diversion by cooperatives, but would entirely remove the proprietary handlers' diversion privilege.

The proposal to eliminate the diversion of milk to nonpool plants by proprietary handlers would hamper them in the movement of excess milk. Since diversions are often required to be made on short notice, the proprietary handler is often in a better position than the cooperatives to divert milk. If this proposal were adopted, any milk diverted to a nonpool plant by a proprietary handler would lose its status as producer milk. Non-members of cooperatives would be placed at a particularly great disadvantage because their milk could not be diverted without losing its status as pooled milk. Efficiency in marketing of milk requires that diversions be made from the farm directly to the manufacturing plants located in or near the production area. The privilege of diverting milk to nonpool plants during the flush months should continue to be available to proprietary handlers as well as to cooperative associations in order to promote the orderly marketing of market reserves which can become a market-wide problem.

The second aspect of the proposed changes in the diversion provisions is that the cooperative associations be allowed unlimited diversion privileges any time during the year. The fundamental problem involved in unlimited diversions is that some groups of producers may be pooled as part of the regular market supply, yet never establish any objective association with the market.

The evidence in the record showed that the cooperative associations have not had any difficulties with the present 15-day diversion limitation in the fall months. Statistical evidence shows that historically the fall months in the St. Louis market have been ones of short supply, and that the need to divert is least in these months. The wording of the present diversion provision should be changed so that it will be limited to not more than 15 days production of a producer diverted to a nonpool plant in the fall months. This clarifying change is desirable, because of the increased number of bulk tank shippers whose milk is delivered every other day.

Two cooperative associations proposed that before a cooperative could divert milk it must offer such milk for sale to all handlers in the market for Class I purposes by written notice stating the terms and conditions of sale. At the hearing, the proponents suggested a modification to this proposal which would allow diversion for a period of time of from three to five days before a cooperative would be required to offer such milk for sale. Since it has been concluded herein that only limited diversions will be permitted during the months of normally short supply, there appears to be no need for the administratively cumbersome offer system. This provision would be impractical to the extent that the cooperative must notify all the handlers in the St. Louis market by mail before it would be able to divert milk. There would be so many possibilities for a written notice to delay the diversion that it could nullify the effectiveness of the provision.

It is concluded, therefore, that no substantive changes should be made in the present diversion provision.

3. *Bulk tank reload points.* At the time of the hearing nearly half of the producer milk for the St. Louis market was picked up from farms in bulk tanks rather than in 10-gallon cans. Other aspects of the bulk tank developments are covered in Topic Number 6, but one feature of the change warrants separate attention.

It is sometimes advantageous to combine the loads from several farm pickup tanks into one large tank truck for shipment to the city. The only instance of such reloading described at the hearing was accomplished at a country pool plant. In this instance the farm tank milk was pumped into the plant and the highway tanker was loaded out from the plant. This milk was reported as received at the plant and as a subsequent disposition from the plant for location adjustment and pooling purposes.

Apparently there is no question about the status of reloading operations like the one described at the hearing. However, consideration was given to the possibility that reloading might be accomplished at points where no plant facilities are available. Under these circumstances the reload point might be claimed as a location where handler and producer location adjustments should apply. Under the present order these location adjustments are applicable only at pool plants. However, there appears to be no means by which any unequipped reloading point could qualify as a pool plant and thereby become eligible for location adjustments. Accordingly, there is no need for changing the definitions of "country plant" or "pool plant" in this connection.

4. *Pool plant standards.* The country pool plant standards provided herein would:

(1) Eliminate the reserve supply credit;

(2) Qualify a country plant as a pool plant for any month in which 50 percent or more of its approved milk was shipped to city plants;

(3) Permit supply plants to be qualified as pool plants during the succeeding flush months of March through August if they had shipped 50 percent or more of their approved milk to city plants in each of the months of September through February; and

(4) Permit systems of supply plants, upon appropriate notice to the market administrator, to qualify as a group by meeting the same total requirements as apply to individual plants.

There are two principal categories of pool plants described under the St. Louis order. The city plants are those which serve the market by bottling milk and distributing it on wholesale or retail routes in the marketing area in such proportions as to qualify as pool plants. The second group of pool plants, the country plants, are those which qualify by assembling milk from farmers, cooling it, and shipping the milk in bulk form to distributing plants. Commonly such shipments are needed most during the fall season when production per producer is lowest. Accordingly, these plants are pooled the year-round if they meet pool plant requirements during specified fall months. The notice of hearing contained several proposals to change the country plant standards. Because of the close interrelationship between country plants and city plants, the city plant definition was also reviewed at the hearing. However, no evidence was presented regarding any need for changing the city plant standards, so the remainder of this discussion relates only to the country plant standards.

The pool plant standards are objective measures of whether any given supply plant is closely enough associated with the market to require complete regulation and to permit participation in the marketwide pool. Such association with the market should be measured solely by the quantities of milk which the country plant ships to city plants rather than by the additional requirement that such

shipments qualify for reserve supply credit. The reserve supply credit measures whether or not the country supply plant milk was actually needed at the city plant for bottling purposes. It was designed to eliminate any incentive for a supply plant to make uneconomical shipments to city plants merely for the purpose of maintaining pool plant qualifications. However, handlers are allowed location adjustments only on such quantities of country supply plant milk as are needed for bottling purposes, the credit being assigned first to the closest sources of supply plant milk. Any quantities of milk shipped in excess of bottling requirements must be transported at the handler's expense. This serves as an impediment to the shipment of unnecessary quantites of milk to market.

On the other hand, some defects have become apparent in the operation of reserve supply credit. One is that the country plant operator cannot precisely determine the amount of credit which will apply to his shipments to city plants. The amount of credit is affected by such factors as unpredictable fluctuations in city plant sales and, perhaps more importantly, from unpredictable fluctuations in other receipts at the distributing plant from producers who deliver directly to the plant or in receipts from other supply plants. The net result is that country plant operators must be conservative in developing supplies of milk for the market, even though prices may be high enough to attract additional shippers.

The country plant pooling provisions must also be reviewed in the light of changed marketing conditions. Almost 50 percent of the total market supply is now collected from producers' farms in bulk tanks. It would be expected that such milk could be transported economically for longer distances than milk collected in ten-gallon cans. No such result is yet apparent in the market's statistics; the country plants are still growing in terms of the percentage of total production and number of producers. However, further development of bulk tank shipment will cause the country plants to supply only the residual demands of distributing plants and to process or dispose of the daily, weekly, and seasonal reserve supplies of milk. Another marketing development is that city plants have adopted 6-day operation in place of a former 7-day operation. The result is that their demands on country plant supplies fluctuate more widely. Unless there is sufficient holding capacity to "bank" the 7th day supply, a larger total supply of milk is needed to satisfy a given quantity of Class I sales.

Two cooperatives proposed that their supply plants be pooled on the basis of these cooperatives' total identification with the market instead of on the basis of specific performance of each of their country plants. More specifically, they proposed that their supply plants be pooled if certain percentages of the total quantity of member milk were delivered to pool plants other than those operated by the cooperative. They proposed that a minimum of 75 percent be so delivered in October and November and 50 percent in each of the other months. These receipts of member milk at the other pool plants would include both that milk delivered directly from members' farms to pool plants and that delivered from the association-operated supply plants. It was pointed out that this concept of pooling cooperative association "standby" plants has been adopted in other orders. However, it must be recognized that in these other cases the plants operated by the cooperative associations had never functioned as regular suppliers. Except for the fact that by designating them as pool plants the milk could occasionally be resold to other handlers for supplemental purposes as interhandler transfers, such facilities could, in most cases remain as nonpool plants and the milk received there accounted for as producer milk diverted to such plant for the cooperative association.

Such is not the case in St. Louis. Each of the cooperative association supply plants has received milk regularly from producers and each of them has been a regular supplier of milk to city plants. Furthermore, each of them has shipped virtually its entire available supply to city plants in the fall months. It is concluded that country supply plants should continue to be qualified only on the basis of their performance in shipping milk to city distributing plants.

A principal objective of the two cooperatives' proposal was to allow more economical use of available milk. The associations pointed to the obvious economies which could be achieved if all the milk from some of the supply plants could be shipped to market to meet bottling needs while the reserve milk was concentrated at other plants for processing into manufactured dairy products. This objective can be accomplished by allowing any group of supply plants to be pooled on the basis of total shipments of the group or system of plants. Qualifying supply plants on a group or system basis will not change the quantity of milk or number of plants which can be qualified for the pool. Under the present order, any handler or group of handlers can restrict the shipments from one plant to the minimum needed in order to qualify a second supply plant.

This principle of combining plants for maintaining pool qualification should be extended to cover all plants for which a handler is responsible for the marketing of milk. The marketing arrangements should be attested to in the form of a joint certification to the market administrator. The order should provide that the joint certification to the market administrator list the plants to be included in the system and the period that they should be so considered. The initial listing should be furnished with the handler's regular monthly report, due by the 7th day following the first month in which the system is applicable. Any additions to or deletions from the listing should likewise be made by the 7th day following the month to which they apply. Each system is responsible for meeting the overall qualification. If the system as a whole cannot remain qualified, the market administrator must be notified if it is desired that one or more of the component plants be deleted from the system.

The percentages of total supply which a country plant must ship to city plants were also considered at the hearing. A supply plant should qualify in any month when 50 percent of its supply is sent to a distributing plant. Moreover, if a supply plant ships a minimum of 50 percent in each of the six months of September through February, it should be qualified in the succeeding March-August period irrespective of whether it ships the minimum 50 percent of its receipts during these months. Under the present order, supply plants must ship 75 percent in October and November and 35 percent in three of the four months of August, September, December, January. Further, as previously explained, such shipments must qualify for reserve supply credit.

Data of record show that the present supply plants as a group have easily met the modified percentage requirements proposed herein. In 1955, the supply plant shipments which qualified for reserve supply credit during these months ranged from a low of 70.2 in February to a high of 97.5 in November and in 1956 they ranged from 69.0 percent in September to 91.1 in October. Separate data submitted by the two proponent cooperatives show that shipments from their supply plants exceeded 50 percent in all six months of 1955–56 season and in the last four months of 1956. By subtraction, it was demonstrated that the supply plants operated by handlers other than the two cooperatives shipped a considerably higher percentage of their total supplies than did the two associations.

The qualifying months should be September through February instead of August through January. Both the shipment data and the proportion of the total supply used in Class I demonstrate that in recent years these are the six months of greatest demand on the country supply plants.

5. *Dairy farmers for other markets.* Two cooperative associations proposed that the order define the term "dairy farmers for other markets". The definition would apply only during the five flush production months of March through July and would include dairy farmers who were shifted by a handler from a nonpool plant to a pool plant during these months. As proposed, the definition would prevent any dairy farmer from being so shifted, but the proponents apparently meant the definition to apply only to dairymen approved for the production of Grade A milk.

The St. Louis marketing area is surrounded by urban communities not included in the defined marketing area. In such communities there are a number of plants from which milk is distributed in fluid form locally. Although some of the handlers regulated by the order distribute milk in such communities, there are local distributors who do not have a sufficient volume of Class I sales in the St. Louis marketing area to be regulated by the order. In the local communities health requirements are such that many dairy farmers may be qualified to deliver their milk either to regulated plants or to unregulated plants. It is therefore a relatively simple matter

for a handler to shift the delivery of milk from unregulated plants to plants covered by the order.

The existence of a classified price plan and pooling arrangement provided in the St. Louis order affords a means for shifting the surplus in these unregulated markets into the St. Louis market-wide pool and causing an uneconomical reduction in the St. Louis uniform price. This shifting is accomplished by causing producers whose milk is not resold in the unregulated market to deliver their milk to a St. Louis pool plant when it is disposed of as Class II but for which the producer receives the St. Louis uniform price. Regular St. Louis producers, hence, lose the difference between the uniform price and the Class II price on this shifted milk. Milk shifted in this manner does not necessarily represent an additional year-round source of supply for the St. Louis market since such milk may be easily removed from the market for local use in the fall months when production is lowest. If the St. Louis pool is required to support extra reserves of milk which are not genuinely a part of the St. Louis supply and are not available in the months when supplies normally are lowest, monies which would assist regular producers in the maintenance of adequate supplies for the marketing area are lost to them.

It has been considered necessary, heretofore, to adopt certain delivery standards which individual plants serving the St. Louis marketing area must meet to qualify for participation in the St. Louis pool during all months of the year. Such a plant may become eligible only through demonstration that it will serve the St. Louis marketing area in the periods when milk production is seasonally low. It is equally important that milk received from individual producers as well as milk received from individual plants be included in the pool only if such milk is a part of the normal and regular supply of the market. To accept in the pool any milk having primary affiliation with another market tends to defeat the purposes of the order as a means of establishing minimum producer prices, maintaining orderly marketing conditions, and assuring a sufficient supply of milk to satisfy market needs.

The proposed definition of "dairy farmers for other markets" would apply only to Grade A dairy farmers whose milk was delivered to an unregulated plant operated by a regulated handler, an affiliate of a handler, or any person who controls or is controlled by a handler during any of the preceding months of August through February. This provision, of course, would not prevent producers being shifted from unregulated plants to St. Louis pool plants during the flush season by totally unregulated handlers. However, the testimony discloses that producer shifts between handler related plants constitute the most serious problem under St. Louis conditions. It is, therefore, concluded that such definition of dairy farmers for other markets should be adopted and that such farmers should not qualify as producers during the specified months for pooling purposes. Their milk may, of course, be received at a pool plant as other source milk.

6. *Cooperative association as handler.* One proposal considered at the hearing was designed to accommodate efficiencies resulting from the system of collecting milk from farms in bulk tank trucks.

One cooperative association owns and operates insulated tank trucks in which the milk of producers who have bulk cooling tanks on the farm is picked up and transported to the distributing plants of handlers. Other cooperatives utilize contract haulers to accomplish these same functions. Recently there has been a very rapid expansion in the number of bulk cooling tanks being installed on the farms supplying the St. Louis market. In January 1955, only 2 percent of the total milk was received from bulk tank shippers. In January 1956, the percentage had risen to 15, and in January 1957, to 50. It is extremely likely that the trend in this direction will continue at a very rapid rate.

The transportation of milk from farm to market in insulated tank trucks owned or operated by, or under contract to, cooperative associations has created a problem with respect to the determination of the responsibility to the individual producers. When milk comes to the market in cans, the milk of the individual producers is dumped, weighed, and a sample taken for butterfat testing by an employee of the plant where the milk is utilized. The operator of the plant is fixed with the responsibility for paying the individual producer for the pounds of milk received at the determined butterfat test.

When milk moves to market in a tank truck, the weight of the milk is checked and a sample for butterfat testing is taken at the farm. The milk of several producers is intermingled in the tank truck. When the tank trucks are owned or operated by, or under contract to, the cooperative association, the weight of each producer's milk is checked, and a sample of the milk for butterfat testing is taken, by a person who is an employee of, or directly responsible to, the cooperative association. The handler who receives the milk of several producers intermingled in the tank has no way of knowing the weight or the butterfat test of the milk of the individual producers whose deliveries made up the load, except as such information may be reported to him by the association. In some instances, particularly in the case of supplemental loads, the handler may not even know the identity of the producers whose milk he receives.

When a cooperative is in control of the transportation, it is more appropriate to permit the cooperative association which qualifies as a handler under the order to report for such milk handled. In such case the cooperative should be required to report to the pool for it.

On the milk for which it is a handler, the cooperative association would be required to charge the class prices to the plant operator for such milk. The cooperative association in turn would be required to make the monthly reports with respect to such milk and to settle with the producer-settlement fund for it. Cooperative associations may also be handlers in their capacity as operators of pool plants. Sales by such cooperative association handlers to other handlers should also be at not less than class prices.

There was some consideration at the hearing to limiting the designation of a cooperative as a handler on any given load of bulk tank milk to those months in which such load was split between two or more receiving pool plants. Clearly, however, the basic aspect of the bulk technique is that the person responsible for the producers' weights and tests should be designated as the handler. On cooperative association routes, it would be responsible for weights and tests, regardless of whether the milk was delivered to one or several bottling plants.

With respect to milk received from producers' farms in cans or in tank trucks owned or operated by the distributing plant, the operator of such plant would continue to be the handler for such milk and would be required to account to the market administrator for it. For such milk the handler would make payment to the producer or the cooperative association at the applicable uniform prices.

A somewhat related proposal was directed to situations in which a cooperatives does not choose to be a handler on the bulk tank milk or in which a proprietary handler controls the bulk tank pickup. A bulk load might be split between handlers on any given day or be delivered to more than one handler during the month. In such case the operator of the first pool plant at which the tank of milk is physically received each day should be the responsible handler, in accordance with the procedure followed under the present order for milk picked up from farms either in cans or by bulk tank.

7. *Accounting for inventories.* Under the present order variations in month-end inventories of Class I items are classified as Class II. In the case of handlers who purchase all of their requirements from country plants, a reduction in inventory may often be larger than the quantity of producer milk physically used as Class II. This negative Class II quantity is settled for by means of a reclassification charge, but this obviously constitutes an indirect method of accounting.

A modified system of accounting for inventories should be adopted. Inventories of fluid milk items should be accounted for temporarily as Class II. Then a method should be provided for accounting for milk from inventory which is utilized in the current month for Class I purposes, but which the handler accounted for in Class II at the end of the preceding month. Handlers frequently use other source milk in their operations. The procedure for accounting for inventories should provide that producer milk from inventory should have prior claim on Class I milk over receipts of other source milk in the same manner as is provided for current receipts of producer milk. This may be accomplished through the accounting procedure by considering the opening inventory of a

month as a receipt in the same month and subtracting such receipt (under allocation procedure), in series, starting with Class II milk, following the subtraction of other source milk. To the extent that the opening inventory is allocated to Class I and there was an equivalent amount of skim milk and butterfat in producer milk classified in Class II milk in the previous month (after allocating other source milk) a reclassification charge should be made at the difference between the Class II price in the previous month and the Class I price in the current month. Handled in this manner, milk from inventory will be priced to handlers identically with milk derived from current receipts of producer milk during the month. Other source milk from inventory allocated to Class I milk should be subject to the reclassification charge at the same rate as the compensatory payment on current receipts of other source milk allocated to Class I milk. These inventory provisions will result in equality of cost of milk among handlers and returns to producers irrespective of whether or not such milk is from opening inventory or is a current receipt.

8. *Accounting for concentrated products.* The present order includes reconstituted skim milk sold for fluid purposes as a Class I use. In plants in which both bottling and manufacturing operations are conducted the Class I use is determined by accounting for all receipts and disposition at the plant in milk equivalent terms. This necessary procedure can be clarified in the order by specifically amending § 903.44, "computation of skim milk and butterfat in each class", to include the quantity of water originally associated with any concentrated product such as dry milk, condensed milk, and the like.

9. *Transfers to nonpool plants.* There is frequent occasion to transfer milk from pool plants to nonpool plants. This can be accomplished either as a direct transfer (usually in bulk tank) from one plant to the other or, alternatively, by a diversion for the account of a regulated handler directly from the farms to the nonpool plant. Obviously the particular milk transferred cannot be specifically accounted for at the nonpool plant so allocation rules are necessary just as they are to accomplish classification within a fully regulated plant. At present, the milk transferred or diverted to a nonpool plant is assigned to the lowest available use of an equivalent quantity of milk in the nonpool plant.

This method of allocating to the lowest equivalent use facilitates the disposal of milk not needed for bottling in the St. Louis market. However, there are opportunities for abuse, involving the bottling of the transferred milk and its sale for fluid use. It is possible that a supply plant can earn a greater margin by selling milk to a nonpool plant at a price somewhat above the Class II price than by shipping the milk to a St. Louis city plant at the Class I price. If the nonpool plant operator has both manufacturing and bottling operations in his plant, he can assign the transferred milk to Class II while physically using it for his bottling operation. If he is short of bottling quality milk, he would be willing to pay substantially more than the Class II price for St: Louis supplies. At the same time, the St. Louis city plant might have to resort to other source milk for its Class I requirements. Obviously, such practice would reduce the quantity and proportion of producer milk used in Class I, reduce the blend price, and at the same time constitute unfair competition to the dairy farmers supplying the nonpool plant and to regulated competitors of such plant and perhaps deprive the St. Louis market of needed supplies from regular sources.

The most stringent proposal advanced for the correction of the situation would classify all transfers and diversions to nonpool plants having bottling operations as Class I to the extent of such use at the nonpool plant. This proposal should not be adopted because a sizable proportion of the St. Louis reserve supply is commonly manufactured at nonpool plants having both manufacturing and bottling operations.

There is an intermediate technique which will eliminate the major deficiencies in the present transfer provision without disrupting the outlets for the reserve milk. This can be done by classifying as Class I only such quantities of transferred or diverted milk as are left after assigning to the Class I use at the nonpool plant the regular receipts of Grade A milk from local dairy farmers. Some nonpool plants which might be involved were still selling non-Grade A milk for fluid purposes at the time of the hearing. However, at fully regulated plants, Class I sales of both graded and ungraded milk are assigned first to Grade A producer milk and the same principle should be followed in the allocation at nonpool plants. Moreover, the fluid plants located in Illinois are already taking steps to comply with the statewide Grade A ordinance which is scheduled to become effective July 1, 1957. The operators of some nonpool plants in this territory testified that it would be appropriate to measure the regular supply of milk for fluid use at such plants by reference to Grade A permits.

The transfer provisions should provide for pro rata allocation of assignable Class I credit in the event milk was sent to a nonpool plant from more than one St. Louis pool plant. In case milk is also received at the nonpool plant or from plants subject to other Federal milk marketing orders having similar requirements with respect to transfers to nonpool plants, milk from the closest plant should be assigned first to Class I. In case milk is transferred from the nonpool plant to a second plant(s), the same rules of classification should apply.

Two administrative aspects of the transfer provisions were considered at the hearing. One related to the area beyond which transfers are automatically considered as Class I. Such a limit is necessary for administrative convenience in verifying the utilization of reserve supplies. At present, the surplus disposal area includes the entire southern part of the State of Missouri and territories within the radius of 110 airline miles from the city hall in St. Louis. Some handlers testified that there were opportunities to market reserve milk for manufacturing purposes at distances of more than 110 miles from city hall. They proposed that the distance be increased to 150 miles. It is appropriate that this be done so that further assurance may be given that outlets will be available for the orderly disposal of reserve supplies. Mileage should be measured in terms of highway distance rather than airline miles for reasons related to those discussed under topic 12.

The second administrative problem involving transfers refers to the certificate furnished by the operator of a nonpool plant. At present such certificate must be furnished by the 7th day following the month in which the milk is transferred if Class II utilization is claimed. Since the use of milk at the nonpool plant is subject to verification by audit it appears that the certification of use by the operator of such plant is of little practical value. On the other hand failure to submit a certification on time results in assignment to Class I use. It is concluded that no certification should be required from the nonpool plant operator.

10. *Seasonality of Class I price.* Three proposals in the notice of hearing were directed to modify the seasonality of the Class I price either by means of changing Class I differentials or revising the supply-demand adjustment.

At the hearing brief general consideration was given to a "Louisville" type of plan whereby the Class I differential would be constant throughout the year but a deduction would be made from the pool during the flush months for repayment to producers during the fall months. A base-rating plan under which producers would set bases in the fall months and be paid at base and excess prices during the following flush months was also considered. However, no detailed provisions to implement either type of plan were presented; no detailed consideration was given to the resulting changes in price relationships with competitive markets, either regulated or unregulated; and there was no evidence that the plans had been widely discussed with or supported by any substantial proportion of producers in the market. It is concluded that no change should be made in the Class I price provisions of the order.

11. *Class II price.* Under the present order the Class II price during the eight months of lowest production is equal to the basic formula price less six cents. In the four flush months of March through July, the Class II price is determined by a butter-powder formula.

At the hearing consideration was given to a proposal which would use the butter-powder formula in August as well as in March through July and would reduce it approximately ten cents per hundredweight at current market prices. This proposal was submitted by a handler who operates a pool plant at which milk manufacturing operations are conducted. The manufacturing operations include

both the seasonal and short-time surplus of Grade A milk and a considerable volume of milk received from manufacturing grade shippers. The proponent maintained that at the prevailing Class II prices, the manufacture of surplus Grade A milk was subsidized by the manufacturing grade shippers. In a plant conducting joint operations, it is of course exceptionally difficult to allocate expenses between two sources of milk. It is clear that the Class II price has not been so high as to affect the proponent's acceptance of milk from producers; to the contrary he has pursued a course of adding volume at his pool plant. Neither was there any evidence of difficulty in marketing excess milk at present prices at the numerous other plants engaged in processing Class II milk.

The record shows that in 1956 the four months of greatest Class II volume were April through August. However, in 1953, 1954, and 1955 the presently designated months of March through July were the months of greatest volume.

It is concluded that no change should be made in the Class II butter-powder formula or in the months when such formula should apply.

12. *Location adjustments.* The location adjustments to handlers and producers should be measured by highway distance rather than in airline miles, should apply only at plants located over 30 miles from the city hall in St. Louis, and should be at the rate of 13 cents per hundredweight at distances of 30 to 50 miles, and 18 cents at 50 to 70 miles plus one cent per 13 miles for distances over 70 miles. The method of computing the 5 percent tolerance for use in determining whether the Class I location adjustment applies on milk received from other pool plants should be revised. The location adjustment to producers should continue to apply on all milk delivered to plants at which the location adjustments apply.

No location adjustment should be allowed at plants within 30 miles of the City Hall in St. Louis. At present, any plant located outside the marketing area and certain other designated locations but less than 10 miles from City Hall is eligible for a 6-cent differential, those located over 10 but less than 20 miles for 12 cents and those over 20 and up to 30 miles for 14 cents. There have been fundamental changes in the distribution of milk since these differentials were established in the order in 1941. There has been a substantial shift of population to the surburban territory. This has prompted the St. Louis distributors to expand their sales territories. Improvement in roads, the widespread use of paper bottles, and the greatly increased distribution of milk through stores have all contributed to an expansion of the territories which can be economically served from a bottling plant. In fact, even for plants designed to serve the entire marketing area, there are considerable advantages in locating away from the downtown St. Louis area. Out to a distance of 30 miles, the distributors are all so highly competitive with each other that no location differential should be provided.

Location adjustments should not be eliminated with respect to the supply plants located at Breese, Carlyle, and Okawville, Illinois. These plants range from 40 to 50 miles from City Hall and function primarily as supply plants for the St. Louis market. Milk is received at these plants from producers and shipped in tank truck lots to distributing plants in the marketing area. Location adjustments range from 16 to 17 cents at these plants. The handler is allowed this amount of milk shipped to distributing plants for bottling purposes. Correspondingly, the blend price to producers delivering milk to these plants is 16 and 17 cents less than the uniform price at marketing area plants. There are no bottling operations at any of those plants, although some bulk milk may be supplied from them to bottling plants in Illinois points outside the marketing area.

Location adjustment rates of 13 cents per hundredweight should be provided at plants located in the 30 to 50 mile zone and a rate of 18 cents at plants located in the 50 to 70 mile zone. In the 30 to 50 mile zone, the reduction from the present rates of 16 to 17 cents to the 13-cent rate is based upon evidence relating to premium payments to producers and the cost of hauling milk to city plants.

Producers delivering milk to plants located in this zone have frequently received premiums above the uniform price, though such premiums have been of variable amounts and duration. Apparently these premiums are paid in response to the lower alternative costs of delivering milk directly to city plants. The shift to bulk farm tanks is nearly complete in this portion of the milkshed. Bulk tank milk is cheaper to haul than that in cans, it is easier to meet the 50-degree delivery requirement, and bulk tank milk is more readily acceptable at the bottling plants. The 3 to 4 cent reduction in the hauling rate will allow the handler less credit for hauling milk to the city but the uniform prices to producers will be higher and correspondingly reduce the need for paying premiums.

The only specific evidence on hauling rates was given by the operator of one of the nearby country plants. He testified that the contract rate on bulk tank shipments from his plant to city plants was 13 cents per hundredweight on the basis of fully loaded tanks. His average cost was higher because the quantities needed could not always be arranged in full tank lots. However, the location adjustment should reflect minimum costs, based on the most efficient type of operation. Accordingly, a rate of 13 cents should apply in the 30 to 50 mile zone.

There were no proposals or evidence at the hearing regarding possible changes in the location adjustments at plants located more than 50 miles from St. Louis. At the time of the hearing, there were 8 such plants serving the market. They were located at distances ranging from 102 to 266 miles, by highway distance, and the location adjustments ranged from 22 to 34 cents. Location adjustments at these plants can be maintained with little change by providing an 18-cent rate for plants located more than 50 but not more than 70 miles and by adding 1 cent for each additional 13 miles or fraction thereof. The 13-mile zones based on highway distances are almost exactly equal to the present 10-mile zones measured by airline distances; the only changes would be a reduction of 1 cent at Effingham, Illinois, and an increase of 1 cent at Ava, Missouri.

Location adjustments are allowed only on such country plant shipments as are considered essential to fill the Class I requirements of the city plants. It is recognized that some tolerance must be provided for fluctuations in demand. The order now provides such tolerance by deducting from the Class I sales at a city plant only 95 percent of the quantity of milk received directly from producers.

The same type of tolerance can be provided, with greater equity as between city plants depending wholly or only partly on country plant supplies, by inflating Class I sales at the city plant by 5 percent. This Class I requirement, including the tolerance, would be applied for location adjustment purposes first to direct receipts and then to country plant shipments, in order of nearness.

13. *Equivalent price.* If for any reason a price quotation required by this order for computing class prices or for any other purpose is not available in the manner described, the market administrator should use a price determined by the Secretary of Agriculture to be equivalent to the price which is required. Experience has shown that market quotations provided in the order may not be available or may be discontinued. It is concluded that provision for such contingencies should be made by providing for a determination by the Secretary of Agriculture of a price(s) equivalent to such quotations or prices.

14. *Sales to other Federal order markets.* It was proposed that Class I sales to other Federal markets be priced at the St. Louis Class I price or the Class I price prevailing under the other Federal order whichever is higher. It was maintained that the seasonal variation in the St. Louis price creates a particularly strong incentive during the spring months to sell milk in markets where there is less seasonal variation in Class I prices. To some extent this is another aspect of the seasonal price problem covered above under Topic Number 10.

There was no evidence presented on the extent of such sales. Obviously, if St. Louis handlers had to pay the higher of two order prices in each month of the year, they would be at a competitive disadvantage with handlers in other markets on an annual average basis. Moreover, any such sales would occur during the season of highest production on the St. Louis market and would not result in any shortage of milk at the time it was most needed.

It is concluded that there should be no special price on milk sold in other Federal order markets.

15. *Compensatory payments.* It was proposed that the method of computing compensatory payments on other source milk sold by nonpool distributing plants

("city" plants, as defined in the order) be revised. The basic technique suggested was that the payments be based on actual payments to dairy farmers at such plant instead of being based on assumed prices. No change was proposed in the rate of payments on other source milk allocated to Class I in pool plants. Such milk usually represents purchases of supplemental milk in bulk form. The operators of such plants would not quality as handlers under the order, would not be making regular reports, would be widely scattered geographically, and might be comparatively numerous. At present, the rate of compensatory payment on both categories of other source milk in Class I is at the difference between the Class I and Class II prices during the five flush months of March through July and at the difference between the Class I blend prices during the other 7 months of the year.

Experience under other Federal orders demonstrates the feasibility of using actual payments to dairy farmers to determine the amount of any payment which should be made by the operator of a nonpool distributing plant in order to remove any competitive advantage he may have in the procurement of milk, as compared with fully regulated handlers. Only a few such nonpool plants are involved; at the time of the hearing it appears that there were only two such plants serving the St. Louis market. The pooling provisions, as such, were open for consideration at the hearing, but for the reasons given under Topic 4 above, no change is being made. The nonpool city plants are, therefore, those few plants from which Class I route sales are made in the marketing area but not in sufficient quantity to become fully subject to the order as pool plants. The operators of such plants already submit regular reports to the market administrator in adequate detail to determine their status. Their distribution is comparatively regular and the plant operator is aware of the order regulations.

The actual payments method of computing compensatory payments should be in the form of an option to the present rates of payment. In other words, a nonpool distributor should have the choice of paying either the difference between the Class I and Class II (March-July) and the difference between the Class I and the blend (August through February) prices on his in-area Class I sales or any amount by which he has failed to pay his Grade A dairy farmers the use value of milk at order prices.

Nonpool distributors are required to file regular reports of receipts and utilization. Under the second option the value of his disposition of milk would be computed at the Class I and Class II prices, adjusted for location and butterfat, in the same manner as at a pool plant. Such value would include the value of any milk received from other than Grade A shippers, at the same valuation as the other source milk at pool plants. (The option is, of course, not applicable to nonpool distributors who buy no milk from dairy farmers. If such an operator buys his milk from pool plants, it will be priced in accordance with the provisions for transfers of milk from pool to nonpool plants. If he buys from unregulated plants, he should pay the same rates of compensatory payment on his in-area sales as regulated plants pay on their purchases of supplemental milk for Class I use.) From this utilization value, the administrator would subtract cash payments to the Grade A dairy farmers who constitute the regular supply of milk at the nonpool plant. Only such payments would be recognized as have been made to dairy farmers by the 25th day of the following month. The payments would be the gross amount paid for milk delivered by farmers at the nonpool plant; the only deductions allowed would be those authorized in writing by the dairy farmer for supplies or services, including hauling. Any amount by which such payments failed to equal the utilization value of the milk would be payable to the producer settlement fund. In this way the nonpool plant operator will be fully equated in terms of the utilization cost of his milk with pool plant operators.

The assessment of administrative expenses should depend upon which option is chosen by the nonpool distributor. If he elects to pay the difference between Class I and Class II or Class I and blended prices on his in-area sales, he should continue to pay administrative expense only on such quantities. However, if he elects the payment-to-dairy-farmers option, he should pay administrative expense on his entire receipts from the Grade A dairy farmers. Obviously, the second option involves fully as much verification of receipts and utilization by the market administrator as at a pool plant. Such verification might well include the checking of weights and butterfat tests of receipts from dairy farmers and of the product sold as well as an audit of the books and records. Also, some of the fully regulated plants have nearly as large a proportion of out-of-area sales as a nonpool distributor yet are assessed administrative expense on their entire receipts.

16. *Designation by the market administrator of membership in a cooperative association.* Two cooperative associations of producers proposed that the market administrator should become primarily responsible for designating which producers are members of cooperative associations.

The present order provides that if a cooperative association makes a request in writing to the handler to make payment for or authorized deductions on producer milk received during the month, such handler shall make payment to the cooperative. If a producer is a member of more than one cooperative association and the cooperatives have made conflicting requests to the handler with regard to payment and deductions on producers' milk received by the handler, the dispute is settled primarily between the cooperatives and the handler. This is not and should not be the responsibility of the market administrator. Under the proposed amendment, the market administrator would be given the equivalent of judicial powers in the matters involving the interpretation and validity of membership contracts or agreements of cooperatives with producers. Disputes of this kind are best resolved through normal judicial channels. In any case the position of market administrator confers no particular competency on the incumbent to deal with such disputes.

It is, therefore, concluded that the proposal to make the market administrator primarily responsible for designating which producers are members of a cooperative association should be denied.

17. *Interest payments.* Provision should be made for application of interest charges on all accounts which may become overdue.

The present order provides that interest payments be made on any overdue account due the producer-settlement fund. The proposal of the cooperatives was that interest charges should be applied on overdue payments to the producers or cooperatives. It is concluded that interest should be charged not only on payments to producers but also on payments in and out of the producer-settlement fund, on administrative expenses, adjustment of accounts, and payments due for marketing services, so as to be consistent throughout the order.

It is in accordance with good business practice to apply interest charges on money due producers or the market administrator, and the rate of interest is a reasonable charge for the use of the money. Therefore, any unpaid obligations of the market administrator or any handler regulated under the order should be increased one-half of one percent for each month or portion thereof that such payment is overdue. Under the attached order provisions, interest would be applied to any unpaid obligations which are due on the effective date of this amendment.

18. *Association dues.* Section 80 of the order provides means whereby cooperative associations of producers may request that the amounts due from handlers to their members be paid to the association, which in turn may pay its members. Section 88 (a) of the order provides that the market administrator shall furnish check-weighing, check-testing and informational services to producers who are not members of a cooperative association performing such services. Paragraph (b) of this section provides that a cooperative association which is performing such services may have its dues deducted from the amounts otherwise payable by each handler to its members and have the dues paid directly to the cooperative association by the handler. For purposes of both Sections 80 and 88, a cooperative association must be performing minimum testing and information services and must be qualified under the Capper-Volstead Act.

It was proposed that the paragraph (b) portion of Section 88, relating to the deduction of association dues be deleted. Cooperative associations which have been relying upon this method of collecting dues would then be required either to assess the members directly, have the handlers deduct the dues voluntarily without references to the authority of the order, or take over the entire payroll for their members under Section 80.

It does not appear that the proposal would contribute to orderly marketing. The first two alternatives available to cooperatives would be difficult of achievement, at best. On the other hand, the acquisition of the entire payroll pursuant to § 903.80 would have the sanction of the order. There appears to be no useful purpose in requiring the cooperatives to change from a dues basis to an entire payment basis since such change would not necessarily affect the cooperatives primary efforts on behalf of their membership.

It is concluded that the record contains insufficient evidence in support of the special considerations involved in this proposal and it should, therefore, be denied.

Rulings on proposed findings and conclusions. Briefs were filed on behalf of certain interested parties in the market. These briefs and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions set forth in the briefs are inconsistent with the findings and conclusion set forth herein, the request to make such findings or reach such conclusions are denied.

General findings. (a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Recommended marketing agreement and order amending the order. The following order amending the order regulating the handling of milk in the St. Louis, Missouri, marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended:

1. Delete § 903.3 and substitute the following paragraph:

§ 903.3 *Department.* "Department" means the United States Department of Agriculture or any other Federal agency as may be authorized by act of Congress or by Executive order to perform the price reporting functions of the United States Department of Agriculture.

2. In § 903.6 change the phrase "except a producer-handler", to read "except a producer-handler or a dairy farmer for other markets",.

3. In § 903.6 (a) change the phrase "fluid milk plant" to read "pool plant" and the phrase "nonfluid milk plant" to read "nonpool plant".

4. In § 903.6 (b) change the phrase "pursuant to § 903.88 (b)" to read "pursuant to § 903.10", and "or on not more than 15 days" to read "or to the extent of not more than 15 days' production".

5. Delete § 903.9 (b) and substitute the following:

(b) (1) A country plant from which no less than 50 percent of its approved milk, during the month, is shipped to city plants qualified pursuant to paragraph (a) of this section: *Provided,* That if such plant is a pool plant during each of the months of September through February, it shall be designated as a pool plant through the following August, unless nonpool designation is requested by means of written application to the market administrator on or before the 7th day after the end of the first month for which nonpool designation is requested.

(2) All country plants which are operated by one handler, or all of the plants for which a handler is responsible for the movement of milk to city plants under a marketing arrangement certified to the market administrator by both parties, may be considered as a unit, upon written notice to the market administrator specifying the plants to be considered as a unit and the period during which such consideration shall apply. Such notice, and notice of any change in designation, shall be furnished on or before the 7th day following the month to which the notice applies. In any of the months of March through August a unit shall not contain plants which were not qualified as pool plants, either individually or as members of another unit, during each of the previous months of September through February.

6. Delete § 903.10 and substitute the following:

§ 903.10 *Cooperative association.* "Cooperative association" means any cooperative marketing association of producers as defined in § 903.6, which the Secretary determines after application by the association is qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act".

7. In § 903.12 change the phrase "903.88 (b)" to read "§ 903.10", change the period to a semi-colon, and add new paragraph (d) as follows:

(d) A cooperative association, which chooses to report as a handler with respect to milk which is delivered to the pool plant(s) of another handler in a tank truck owned or operated by, or under contract to, such cooperative association for the account of such cooperative association. (Such milk shall be considered as having been received by such cooperative association at the plant to which it is delivered.)

8. Delete the period at the end of § 903.15 and add the phrase "or in milk received from a cooperative association pursuant to § 903.12 (d)."

9. Add a new definition as follows:

§ 903.17 *Dairy farmers for other markets.* "Dairy farmers for other markets" means any dairy farmer whose milk is received by a handler at a pool plant during March through July from a farm from which the handler, or an affiliate of a handler, or any person who controls or is controlled by the handler, received nonpool milk approved as Grade A milk during any of the preceding months of August through February.

10. In § 903.22 (k) change § 903.88 (b)" to read § 903.10".

11. Revise § 903.30 (a) to read as follows:

(a) The quantities of skim milk and butterfat contained in all receipts at each of his city and country plants of (1) producer milk, (2) skim milk or butterfat contained in Grade A products designated as Class I milk pursuant to § 903.41 (a) received from pool plants, (3) milk received from cooperative associations pursuant to § 903.12 (d), and (4) other source milk.

12. Change § 903.41 (b) (2) to read as follows:

(2) In inventory of products designated as Class I milk in § 903.41 (a) on hand at the end of the month; and

13. Revise § 903.43 (c) to read as follows:

(c) Skim milk and butterfat disposed of in the form of milk, skim milk, or cream by transfer or diversion from a pool plant to a nonpool plant shall be classified as Class I milk:

(1) Unless the product is transferred or diverted in bulk form or in producer cans;

(2) Unless the transferee-plant is located within 150 miles, by shortest highway distance as determined by the market administrator, from the city hall in St. Louis, Missouri, or in the State of Missouri south of the Missouri River;

(3) Unless the handler claims assignment to Class II, in the report submitted pursuant to § 903.30 or otherwise, on or before the 7th day after the end of the month in which such transaction occurred;

(4) Unless the operator of the transferee-plant maintains books and records showing the utilization of all skim milk and butterfat received in any form at such plant, which are made available if requested by the market administrator for the purpose of verification; and

(5) To the extent of the quantity of assignable Class I milk remaining after the following computation:

(i) From the total skim milk and butterfat, respectively, disposed of from such nonpool plant and classified as Class I milk pursuant to the classification provisions of this part applied to such nonpool plant, subtract the skim milk and butterfat received at such plant directly from dairy farmers who hold permits to

supply "Grade A" milk and who the market administrator determines constitute the regular source of supply for such fluid milk products for such nonpool plant;

(ii) From the remainder, subtract the skim milk and butterfat, respectively, received from any plant which is (a) subject to the classification and pricing provisions of another order issued pursuant to the act, and (b) located at a shorter highway distance than the transferor pool plant which is subject to this order.

If any milk is transferred to a second nonpool plant under this paragraph, the same conditions of audit, classification, and allocation shall apply.

14. Revise § 903.44 by adding the following proviso: *"Provided,* That if any of the water contained in the milk from which a product is made is removed, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product plus all the water originally associated with such solids."

15. In § 903.45 (a) (3) change the phrase "and (ii) plants qualified pursuant to § 903.9 (b)" to read, ", (ii) plants qualified pursuant to § 903.9 (b), and (iii) cooperative associations pursuant to § 903.12 (d)."

16. Amend § 903.45 (a) by renumbering subparagraphs "(6)" and "(7)" as "(7)" and "(8)", respectively and adding a new subparagraph (6) as follows:

(6) Subtract from the pounds of skim milk remaining in Class II milk the pounds of skim milk contained in inventory of products designated as Class I in § 903.41 (a) on hand at the beginning of the month: *Provided,* That if the pounds of milk in such inventory shall exceed the remaining pounds of skim milk in Class II, the balance shall be subtracted from the pounds of skim milk remaining in Class I.

17. In § 903.51 (a) (2) delete the proviso, *"Provided,* That for the months of September, October, and November, 1956 such rate shall be five cents and the maximum amount shall be plus or minus 45 cents."

18. Revise § 903.52 to read as follows:

§ 903.52 *Location Adjustments to handlers.* For that portion of milk which is (a) received from producers at a pool plant located outside the marketing area and 30 miles or more from City Hall, St. Louis, Missouri, by the shortest highway distance as determined by the market administrator, and (b) is either (1) transferred in the form of milk, skim milk or cream to a pool plant located in the marketing area and assigned to Class I pursuant to the proviso of this section, or (2) is classified as Class I milk without such movement, the prices specified in § 903.51 shall be reduced by a location differential, computed as follows:

Mileage:	*Allowance (cents)*
More than 30 but not more than 50 miles	13
More than 50 but not more than 70 miles	18
For each additional 13 miles or fraction thereof an additional	1

Provided, That for the purpose of calculating such differentials transfers between pool plants shall be assigned to Class I in a volume not in excess of that by which 105 percent of Class I disposition at the transferee plant exceeds the receipts from producers at such plant, such assignment to transferor plants to be made first to plants at which no adjustment credit is applicable and then in the sequence at which the lowest location adjustment credit would apply.

19. Add a new § 903.54 as follows:

§ 903.54 *Use of equivalent price.* If for any reason a price quotation required by this part for computing class prices or for any other purpose is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

20. Revise § 903.62 to read as follows:

§ 903.62 *Handlers operating nonpool city plants.* In lieu of the payments required pursuant to §§ 903.80 through 903.84, each handler, other than a producer-handler or one exempt pursuant to § 903.61, who operates during the month a nonpool city plant, shall pay to the market administrator the amounts calculated pursuant to paragraph (a) of this section unless the handler elects, at the time of reporting pursuant to § 903.30, to pay the amounts computed pursuant to paragraph (b) of this section;

(a) The following amounts, at the times specified:

(1) On or before the 12th day after the end of the month, for the producer settlement fund, an amount equal to the difference between the value of Class I milk disposed of to retail or wholesale outlets (including deliveries by vendors and sales through plant stores) at the Class I price for the month and:

(i) During the months of March through July, the Class II price, or

(ii) For the months of August through February the uniform price adjusted by the Class I location differential and by a butterfat differential calculated by multiplying the total volume of producer butterfat in each class during the month by the butterfat differential for each class, dividing the result by the total butterfat in producer milk, and rounding the resultant figure to the nearest one-tenth cent; and

(2) On or before the 15th day after the end of the month, as his share of the expense of administration, the rate specified in § 903.87 with respect to Class I milk so disposed of in the marketing area.

(b) The following amounts, at the times specified:

(1) On or before the 25th day after the end of the month, for the producer settlement fund, any plus amount resulting from the following computation:

(i) Compute an amount equal to the value of milk which would be computed pursuant to § 903.70 for milk received from Grade A dairy farmers at such plant for such month if such plant had been a pool plant;

(ii) Deduct the gross payments made by the handler to Grade A dairy farmers for milk received at such plant for such month. Gross payments to be included in this computation shall be limited to cash payments made to the dairy farmer or his assignee, on or before the reporting date plus the value of supplies or services furnished by the handler on prior written authorization or as evidenced by a delivery ticket signed by the dairy farmer; and

(2) On or before the 25th day after the end of the month, as his share of the expense of administration, an amount equal to that which would have been computed pursuant to § 903.87 had such plant been a pool plant.

21. Delete paragraphs (b) and (c) of § 903.70, and insert in lieu thereof the following:

(b) Add an amount computed by multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat remaining in Class II after the calculations pursuant to § 903.45 (a) (8) and (b) less the amount deducted pursuant to § 903.45 (a) (1) and (b) for the preceding month, or the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 903.45 (a) (6) and (b) for the current month, whichever is less: *Provided,* That in the case of a handler who receives no milk from producers, the computation shall be made on the lesser of the quantities deducted from Class I pursuant to § 903.45 (a) (6) and (b) for the current month, or the quantity of skim milk and butterfact subtracted from Class II the previous month pursuant to § 903.45 (a) (7) and (b) less the amount deducted pursuant to § 903.45 (a) (1) and (b);

(c) Add an amount computed by multiplying the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 903.45 (a) (2) and pursuant to § 903.45 (a) (6) and (b) which is in excess of the skim milk and butterfat applied pursuant to paragraph (b) of this section (less, in the case of a plant permitted to bottle non-Grade A milk, the hundredweight of non-Grade A skim milk and butterfat, respectively, received at the plant and sold in non-Grade A Class I products outside the marketing area) by the price arrived at by subtracting from the Class I price adjusted by the Class I butterfat differential and the Class I location differential at the nearest plant(s) from which an equivalent amount of other source milk was received:

(1) For the months of March through July, the Class II price adjusted by the Class II butterfat differential; or

(2) For the months of August through February the uniform price adjusted by the Class I location differential and by a butterfat differential calculated by multiplying the total volumes of producer butterfat in each class during the month by the butterfat differential for each class, dividing the resultant figure by the total butterfat in producer milk and rounding the resultant figure to the nearest one-tenth cent; and

(d) Add the amounts computed by multiplying the pounds of overage deducted from each class, pursuant to § 903.45 (a) (8) and (b), by the applicable class price.

22. In § 903.80 (b) change the phrase "pursuant to § 903.88 (b)" to read "pursuant to § 903.10".

23. Add a paragraph (c) to § 903.80, as follows:

(c) On or before the 14th day of the following month each handler shall pay to a cooperative association, with respect to such milk as was received from the association in its capacity as a handler during the month not less than an amount computed by multiplying the minimum prices for milk in each class, subject to the applicable location differential provided by § 903.52 and the butterfat differential provided by § 903.53, by the hundredweight of milk in each class.

24. Revise § 903.82 to read as follows:

§ 903.82 *Location differentials to producers.* In making payments for milk received from producers pursuant to § 903.80, the uniform price per hundredweight for milk received at plants located more than 30 miles from City Hall, St. Louis, Missouri, shall be reduced by the amounts set forth in the following schedule according to the shortest highway distance, as determined by the market administrator, from the plant where the milk is received from producers or the plant from which the milk is diverted, to City Hall in St. Louis, Missouri:

Mileage Zone:	*Allowance (cents)*
More than 30 but not more than 50 miles	13
More than 50 but not more than 70 miles	18
For each additional 13 miles or fraction thereof an additional	1

25. In § 903.84, following the phrase "pursuant to § 903.80", replace the colon with a period and delete the words "*Provided,* That to this amount shall be added one-half of 1 percent of any amount due the market administrator pursuant to this section for each month or any portion thereof that such payment is overdue".

26. Revise § 903.87 to read as follows:

§ 903.87 *Expense of administration.* As his pro rata share of the expense of the administration of this part, each handler operating a pool plant shall pay to the market administrator on or before the 15th day after the end of each month for such month 2½ cents, or such lesser amount as the Secretary may prescribe, for each hundredweight of skim milk and butterfat contained in (a) producer milk and (b) Grade A other source milk (except other source milk which was subject to the Class I pricing provisions of another order issued pursuant to the act) which is allocated to Class I milk.

27. In § 903.88 (b) delete the phrase "to be qualified under the requirements of the act of Congress of February 18, 1922, as amended, known as the 'Capper-Volstead Act,'."

28. Add a new § 903.89, as follows:

§ 903.89 *Adjustments of overdue accounts.* Any unpaid obligation of a handler or of the market administrator pursuant to §§ 903.80, 903.84, 903.85, 903.86, 903.87, and 903.88 shall be increased one-half of one percent for each month or portion thereof that such payment is overdue.

Issued at Washington, D. C., this 12th day of September 1957.

[SEAL] ROY W. LENNARTSON,
Deputy Administrator.

[F. R. Doc. 57-7626; Filed, Sept. 16, 1957; 8:51 a. m.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 120]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

NOTICE OF FILING OF PETITION FOR ESTABLISHMENT OF TOLERANCE FOR RESIDUES OF MERCAPTOBENZOTHIAZOLE

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d) (1), 68 Stat. 512; 21 U. S. C. 346a (d) (1)), the following notice is issued:

A petition has been filed by Food Machinery and Chemical Corporation, Middleport, New York, proposing the establishment of a tolerance of 0.1 part per million for residues of mercaptobenzothiazole in or on apples.

The analytical method proposed in the petition for determining residues of mercaptobenzothiazole is as follows: The sample of apples is extracted with benzene, and any mercaptobenzothiazyl disulfide (an oxidation product of mercaptobenzothiazole) is reduced to mercaptobenzothiazole with hydrogen sulfide. The benzene is evaporated in the presence of dilute ammonium hydroxide and insoluble material removed by filtration. Excess hydrogen sulfide is removed from the filtrate and the filtrate further clarified by a second filtration. This second filtrate is acidified with hydrochloric acid, extracted with chloroform, and the extract concentrated by partial evaporation of the solvent. Color is developed on the concentrated extract by the addition of cobalt linoleate and is measured at 410 millimicrons.

Dated: September 11, 1957.

[SEAL] ROBERT S. ROE,
Director,
Bureau of Biological and Physical Sciences.

[F. R. Doc. 57-7614; Filed, Sept. 16, 1957; 8:50 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 3]

[Docket No. 12076]

TABLE OF ASSIGNMENTS; TELEVISION BROADCAST STATIONS

ORDER EXTENDING TIME FOR FILING REPLY COMMENTS

In the matter of amendment of § 3.606, Table of Assignments, Television Broadcast Stations (Erie, Pennsylvania; Akron-Cleveland, Ohio; Clarksburg and Weston, West Virginia; Flint-Saginaw-Bay City, Michigan.)

1. The Commission has before it for consideration a petition filed September 10, 1957, by Telecasting, Inc., permittee of television Station WENS, Pittsburgh, Pennsylvania, requesting the Commission to extend the time for filing reply comments in the above-entitled proceeding from September 16, 1957, to September 30, 1957.

2. In support of its request, petitioner alleges that approximately 16 parties have filed detailed comments containing voluminous technical and economic data; that appropriate reply comments must be based upon a careful analysis of such data, particularly the data pertaining to the engineering matters involved; and that it would be extremely difficult, if not impossible, to review adequately these comments and to prepare and submit necessarily comprehensive reply comments by September 16, 1957.

3. The Commission is of the view that the public interest would be served by extending the time for filing reply comments in the above-entitled proceeding.

4. In view of the foregoing: *It is ordered,* That the aforesaid petition of Telecasting, Inc., is granted, and that the time for filing reply comments in the above-entitled proceeding is extended from September 16, 1957, to September 30, 1957.

Adopted: September 11, 1957.

Released: September 11, 1957.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,
Acting Secretary.

[F. R. Doc. 57-7615; Filed, Sept. 16, 1957; 8:50 a. m.]

NOTICES

DEPARTMENT OF AGRICULTURE

Office of the Secretary

KANSAS

EXTENSION OF DESIGNATION OF COUNTIES FOR PURPOSE OF MAKING PRODUCTION EMERGENCY LOANS

For the purpose of making Production Emergency loans pursuant to section 2 (a) of Public Law 38, 81st Congress (12 U. S. C. 1148a–2 (a)), the period for making initial Production Emergency loans authorized in the Acting Secretary's order of December 7, 1956 (21 F. R. 9955), in the counties listed below is extended without limitation until further notice.

KANSAS

Graham.
Norton.

Done at Washington, D. C., this 6th day of September 1957.

[SEAL] MARVIN L. MCLAIN,
Acting Secretary.

[F. R. Doc. 57–7605; Filed, Sept. 16, 1957; 8:48 a. m.]

DEPARTMENT OF COMMERCE

Bureau of Foreign Commerce

[Case 237]

GEBRS. MELMAN

ORDER DENYING EXPORT PRIVILEGES

In the matter of: P. Melman, doing business under the firm name and style of Gebrs. Melman, Zuid Oosterfront 122, 's-Hertogenbosch, Netherlands; Respondent, Case No. 237.

P. Melman, doing business under the firm name and style of Gebrs. Melman, the respondent, was charged by the Agent-in-Charge, Investigation Staff, Bureau of Foreign Commerce, U. S. Department of Commerce, with having violated the Export Control Act of 1949, as amended, in that, as alleged, he made false representations as to end use and ultimate destination of commodities exported or sought to be exported from the United States, he attempted to procure and did procure U. S. controlled goods by making such representations, and he thereafter shipped such goods to Communist Bloc destinations. He was duly served with a copy of the charging letter but failed to appear or answer herein. He has been denied export privileges pending the outcome of this proceeding (21 F. R. 2302).

In accordance with the practice, this case was referred to the Compliance Commissioner, who has reviewed the evidence and submitted to the undersigned his report and recommendation, which, upon the facts as hereinafter found, appears to be fair and just and is therefore adopted.

Now, after considering the entire record, including the report and recommendation of the Compliance Commissioner, I hereby make the following findings of fact:

1. At all times hereinafter mentioned, P. Melman, trading under the firm name and style of Gebrs. Melman, was and now is engaged in the export and import business in 's-Hertogenbosch, the Netherlands.

2. At al ltimes hereinafter mentioned, Melman knew that borax and chromic acid, originally exported from the United States as raw material or as a refined product, were subject to United States export controls. He knew that these controls prohibited the shipment or transshipment of such commodities to Soviet Bloc destinations without prior written authorization from the United States Department of Commerce. At no time hereinafter mentioned did he ever apply for and at no time hereinafter mentioned did he or anyone acting on his behalf receive such authorization from the United States Department of Commerce.

3. Heretofore, on the 10th day of May, 1955, Melman ordered 255 tons of borax from a supplier of borax in the United States and, for the purpose of enabling said supplier to apply for an export license, represented to said supplier that he was purchasing the said borax for sale to and consumption by Dutch customers.

4. Further, for the purpose of expediting the issuance of the export license, Melman furnished a list of names and addresses to the American Consul in Rotterdam and represented to him that the persons thereon set forth were his customers for the borax being ordered.

5. Melman had no customers in the Netherlands for said borax, some of the persons mentioned in the list so furnished by Melman were nonexistent and the others had not ordered any borax from him. He admitted to the American Consul that it had been his intention to transship the borax to Rostock, East Germany.

6. The application for export license was rejected.

7. In about April 1955, in an effort to obtain 250 tons of borax from an American supplier, Melman induced a Dutch firm to place an order for that quantity with the American supplier and, for the purpose of supporting the order and the necessary application for export license, induced the Dutch firm to execute an end-use statement in which it certified that the borax for which the export license was being sought was being acquired for the manufacture of soap or soap flakes to be sold in Holland, Belgium, and Luxembourg.

8. Said representations in the end-use statement were false in that the Dutch firm which executed the same did not so intend to use the borax but, on the contrary, was purchasing it for Melman's account.

9. Although an export license was issued on the basis of said representation, no exportation was made thereunder and the license was returned, unused, to the Department of Commerce.

In about May 1955, having the intention to transship to Eastern Germany about 30 tons of chromic acid, Melman arranged with a Dutch firm for it to purchase said acid from an American supplier without disclosing to him that the intention was to transship to Eastern Germany.

11. The American supplier, not being so informed and acting on the implied representation that the chromic acid was to be consumed in the Netherlands, exported 30 tons thereof to Melman's agent and, in support of said exportation, certified in an export declaration, as true and correct, that the ultimate consignee thereof was in the Netherlands and that the place of ultimate consumption was the Netherlands.

12. Said certifications were false and were induced by Melman who, upon obtaining control of the chromic acid in the Netherlands, transshipped it, without prior approval from the Department of Commerce, to Eastern Germany.

13. In an effort to obtain 150 tons of United States origin borax from a supplier in Western Germany, in July 1955, Melman caused the same Dutch firm mentioned in Finding 7 hereof, to represent falsely that it intended to use such borax in its own manufactures. During the delay resulting from the investigation instituted by the West German supplier, the Dutch firm withdrew from the negotiations, but Melman continued the same in the name of the Dutch firm and, in his efforts to induce the West German firm to supply the borax, made continued and repeated representations that the Dutch firm, having been named as a consignee in a U. S. export license, was a U. S. approved purchaser of borax and required the same in its business. All said representations were false because the Dutch firm had no use for the said borax and the license which had been issued for the exportation to it (Finding 9 hereof) had been obtained by the making of similar false representations. Melman obtained no borax in this series of negotiations.

14. Between August and November 1955, Melman induced a West German supplier of borax to sell and deliver to him two lots of U. S. origin borax, 100 metric tons each, by representing and warranting to him, in false end-use statements supplied by two Dutch firms, that the borax would be used in the factories of said Dutch firms.

15. The West German supplier, relying on said end-use statements, sold and delivered to Melman the two lots of borax and Melman transshipped the same to Rostock, East Germany, and to Gdynia, Poland.

16. Also, in and between July 1955 and January 1956, Melman induced two other West German suppliers to sell and deliver to him large quantities of U. S. origin borax and he induced such sales and deliveries by representing falsely that he required such borax for use and distribution in the Netherlands and that he would not reexport or transship the same to any Soviet Bloc destinations.

17. Said representations and commitments were false and known by Melman

to be false at the times he made them and, further, he then and at all such times was seeking to acquire borax for transshipment to Soviet Bloc destinations.

18. In reliance on such representations and commitments, said two West German suppliers obtained the borax from their suppliers by executing similar commitments to them and they thereafter caused to be delivered to Melman an aggregate of approximately 800 tons of borax.

19. On obtaining control thereof, Melman transshipped some of said borax to Gdynia, Poland, and other of the said borax to Rostock, East Germany.

And, from the foregoing, the following are my conclusions:

A. Melman made or caused to be made false representations to and concealed or caused to be concealed material facts from the Bureau of Foreign Commerce in connection with the preparation, submission, issuance, or use of export control documents or documents relating thereto, or for the purpose of or in connection with effecting exportations from the United States, or the reexportation, transshipment, or diversion of such exportations, thereby violating § 381.5 of the U. S. Export Regulations, as then in effect.

B. Melman disposed of, diverted, reexported, and transshipped, U. S. origin commodities to a country or countries of ultimate destination contrary to his prior representations; contrary to the terms, provisions, and conditions of notification of prohibition against such action; and contrary to the U. S. Export Control Law and the regulations or export licenses issued thereunder, thereby violating §§ 371.4 (b) and 381.6 of the U. S. Export Regulations, as then in effect.

The Compliance Commissioner, in his Report, said:

[O]ne phase of Melman's operations * * * involves either the attempts to procure controlled goods from the United States upon false representations or the procuring, by device, of such goods from the United States and the subsequent transshipment thereof to a Communist Bloc destination. The remainder of the case involved the obtaining of U. S. controlled goods from sources in Europe and the subsequent transshipment or intended transshipment thereof to Poland or East Germany. This tactic by Melman is easy of comprehension. He must have concluded that direct or indirect purchases from sources in the United States were either too risky or too difficult and so he went abroad to Germany to make his purchases of U. S. controlled goods.

* * * * * * *

* * * In his efforts, he made false representations directly to an American supplier, he induced others to make similar false representations, he induced others to make false representations to German suppliers, and he, himself, made false representations to other German suppliers. He was successful in a very large measure. Information has been supplied to me that he continued his transshipment activities even after service of an order in this proceeding temporarily denying to him all export privileges. He refused to accept service of the charging letter and has ignored the same even though ultimately it was delivered to him. The only remedial action here indicated is permanent denial of export privileges so long as export controls are in effect. That is my recommendation.

Having concluded that the recommended action is fair, just, and necessary to achieve effective enforcement of the law: *It is hereby ordered:*

I. The order dated April 5, 1956 (21 F. R. 2302, Apr. 10, 1956), denying to the respondent, Gebrs. Melman, all export privileges pending the outcome of this proceeding, is superseded hereby.

II. Henceforth, and for the duration of export controls, the respondent P. Melman, doing business under the firm name and style of Gebrs. Melman, be, and he hereby is, suspended from and denied all privileges of participating, directly or indirectly, in any manner or capacity, in an exportation of any commodity or technical data from the United States to any foreign destination, including Canada, whether such exportation has heretofore or hereafter been completed. Without limitation of the generality of the foregoing denial of export privileges, participation in an exportation is deemed to include and prohibit participation by the respondent, directly or indirectly, in any manner or capacity, (a) as a party or as a representative of a party to any validated export license application, (b) in the obtaining or using of any validated or general export license or other export control document, (c) in the receiving, ordering, buying, selling, using, or disposing in any foreign country of any commodities in whole or in part exported or to be exported from the United States, and (d) in storing, financing, forwarding, transporting, or other servicing of such exports from the United States.

III. Such denial of export privileges shall extend not only to the respondent, but also to any person, firm, corporation, or business organization with which he may be related, now or hereafter, by ownership, control, position of responsibility, or other connection in the conduct of trade involving exports from the United States or services connected therewith.

IV. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, shall, without prior disclosure to, and specific authorization from, the Bureau of Foreign Commerce, directly or indirectly, in any manner or capacity, (a) apply for, obtain, or use any license, shipper's export declaration, bill of lading, or other export control document relating to any activity on behalf of or in any manner connected with the respondent, (b) order, receive, buy, use, dispose of, finance, transport or forward, any commodity on behalf of or in any association with the respondent, or (c) do any of the foregoing acts with respect to any commodity or exportation in which the respondent may have any interest of any kind or nature, direct or indirect.

Dated: September 4, 1957.

FRANK W. SHEAFFER,
Acting Director,
Office of Export Supply.

[F. R. Doc. 57-7608; Filed, Sept. 16, 1957; 8:49 a. m.]

Federal Maritime Board

MEMBER LINES OF MARSEILLES/NORTH ATLANTIC U. S. A. FREIGHT CONFERENCE

NOTICE OF AGREEMENTS FILED FOR APPROVAL

Notice is hereby given that the following described agreements have been filed with the Board for approval pursuant to Section 15 of the Shipping Act, 1916, (39 Stat. 733, 46 U. S. C. 814):

Agreements Nos. 5660-4 and 5660-5, between the member lines of the Marseilles/North Atlantic U. S. A. Freight Conference, modify the basic agreement of that conference (No. 5660, as amended). Agreement No. 5660-4, (1) clarifies the voting provisions of the agreement; (2) adds a clause providing for furnishing the Board copies of all tariffs, minutes and true and complete records of all affirmative and negative actions of the member lines; and (3) amends the admission provision to provide that carriers furnishing evidence of ability and intention in good faith to institute and maintain a regular service in the trade covered will be eligible for admission as conference members, as well as carriers who are regularly engaged in the trade as presently provided in the agreement. Agreement No. 5660-5 modifies the provisions of the agreement with respect to arbitration and the assessment of liquidated damages in case of breach of the agreement.

Interested parties may inspect these agreements and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D. C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreements and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: September 12, 1957.

By order of the Federal Maritime Board.

JAMES L. PIMPER,
Secretary.

[F. R. Doc. 57-7606; Filed, Sept. 16, 1957; 8:48 a. m.]

DEPARTMENT OF LABOR

Bureau of Employees' Compensation

[Administrative Order 12]

WAIVER OF APPLICATION OF FEDERAL EMPLOYEES' COMPENSATION ACT

Pursuant to the authority contained in sections 28, 32, and 42 of the Federal Employees' Compensation Act (39 Stat. 748, 749, and 750, as amended; 5 U. S. C. 778, 783, and 793), Reorganization Plan No. 19 of 1950 (64 Stat. 1271, 3 CFR, 1950 Supp., p. 171), and General Order No. 46 (15 F. R. 3290), it is hereby found that conditions prevailing in the Republic of Korea during the period June 25, 1950, to November 30, 1954, inclusive, prevent the establishment of facilities for processing and adjudicating claims of employees of the United States components of the United Nations command in Ko-

rea, who are neither citizens nor residents of the United States, any Territory thereof, or Canada, as well as claims of dependents of such employees. Accordingly, pursuant to the said authority, the application of the Federal Employees' Compensation Act is hereby waived for the period June 25, 1950, to November 30, 1954, inclusive, with respect to such noncitizens and nonresident employees and their dependents.

Signed at Washington, D. C., this 10th day of September 1957.

WILLIAM MCCAULEY,
Director,
Bureau of Employees' Compensation.

[F. R. Doc. 57-7599; Filed, Sept. 16, 1957; 8:47 a. m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-47]

ORDNANCE MATERIALS RESEARCH OFFICE

NOTICE OF PROPOSED ISSUANCE OF CONSTRUCTION PERMIT

Please take notice that the Atomic Energy Commission proposes to issue to the Ordnance Materials Research Office a construction permit substantially in the form set forth in Annex "A" below unless on or before 15 days after filing of this notice with the Federal Register Division a request for formal hearing is filed with the Commission in the manner prescribed by § 2.102 (b) of the Commission's rules of practice (10 CFR Part 2). Annex "B," a memorandum submitted by the Division of Civilian Application which summarizes the principal features of the proposed reactor and the principal factors considered in reviewing the application for license, is also set forth below. For further details see the application for license at the Commission's Public Document Room, 1717 H Street, NW., Washington, D. C.

Dated at Washington, D. C., this 9th day of September, 1957.

For the Atomic Energy Commission.

FRANK K. PITTMAN,
Acting Director,
Division of Civilian Application.

ANNEX "A"

CONSTRUCTION PERMIT

The Ordnance Materials Research Office (hereinafter referred to as "OMRO") on January 15, 1957, filed its application for a Class 104 license to construct and operate a nuclear reactor (hereinafter referred to as "the reactor"). Amendments to the application were filed on March 1, May 1, and June 17, 1957. The application as amended will be referred to herein as "the application".

The Atomic Energy Commission (hereinafter referred to as the "Commission") has found that:

A. The reactor will be a utilization facility as defined in the Commission's regulations contained in Title 10, Chapter I, CFR, Part 50, "Licensing of Production and Utilization Facilities."

B. OMRO proposes to utilize the reactor in the conduct of research and development activities of the types specified in Section 31 of the Atomic Energy Act of 1954.

C. OMRO is financially qualified to construct and operate the reactor in accordance with the regulations contained in Title 10, Chapter I, CFR; to assume financial responsibility for the payment of Commission charges for special nuclear material and to undertake and carry out the proposed use of such material for a reasonable period of time.

D. OMRO is technically qualified to design and construct the reactor.

E. OMRO has submitted sufficient information to provide reasonable assurance that a reactor of the general type proposed can be constructed and operated at the proposed location without undue risk to the health and safety of the public and that additional information required to complete its application will be supplied.

F. The issuance of a construction permit to OMRO will not be inimical to the common defense and security and to the health and safety of the public.

Pursuant to the Atomic Energy Act of 1954 and Title 10, CFR, Chapter I, Part 50, "Licensing of Production and Utilization Facilities", the Commission hereby issues a construction permit to OMRO to construct the reactor as a utilization facility. This permit shall be deemed to contain and be subject to the conditions specified in §§ 50.54 and 50.55 of said regulations; is subject to all applicable provisions of the Atomic Energy Act of 1954 and rules, regulations and orders of the Commission now or hereafter in effect; and is subject to any additional conditions specified or incorporated below.

A. The earliest completion date of the reactor is July 1, 1958. The latest date for completion of the reactor is July 1, 1959. The term "completion date" as used herein means the date on which construction of the reactor is completed except for the introduction of the fuel material.

B. The site proposed for the location of the reactor is the location at Watertown, Massachusetts, specified in the application.

C. The general type of facility authorized for construction is a light water-cooled and moderated pool-type research reactor designed to operate at a thermal power level of 1,000 kilowatts, as described in the application.

This permit is subject to submittal by OMRO to the Commission (by proposed amendment of the application) of the complete, final Hazards Summary Report (portions of which may be submitted and evaluated from time to time) and a finding by the Commission that the final design provides reasonable assurance that the health and safety of the public will not be endangered by operation of the reactor in accordance with the specified procedures.

Upon completion (as defined in Paragraph "A" above) of the construction of the facility in accordance with the terms and conditions of this permit, upon the filing of any additional information needed to bring the original application up to date, and upon finding that the facility authorized has been constructed in conformity with the application as amended and in conformity with the provisions of the Act and of the rules and regulations of the Commission, and in the absence of any good cause being shown to the Commission why the granting of a license would not be in accordance with the provisions of the Act, the Commission will issue a Class 104 license to OMRO pursuant to Section 104c of the Act, which license shall expire forty (40) years after the date of this construction permit.

Pursuant to § 50.60 of the regulations in Title 10, Chapter I, CFR, Part 50, the Commission has allocated to OMRO for use in the operation of the reactor, 9.35 kilograms of uranium 235 contained in uranium at the isotopic ratios specified in the application. Estimated schedules of special nuclear material transfers to OMRO and returns to the Commission are contained in Appendix "A" which is attached hereto. Shipments by the Commission to OMRO in accordance with Column (2) in Appendix "A" will be conditioned upon OMRO's return to the Commission of special nuclear material substantially in accordance with Column (3) of Appendix "A".

For the Atomic Energy Commission.

———— ————,
Director,
Division of Civilian Application.

APPENDIX "A" TO ORDNANCE MATERIALS RESEARCH OFFICE CONSTRUCTION PERMIT

(1) Date of transfer (calendar year)	(2) Transfers from AEC to OMRO kgs. U-235	(3) Returns by OMRO to AEC kgs. U-235		(4) Net yearly Distribution kgs. U-235	(5) Cumulative distribution kgs. U-235
		Cold scrap	Spent fuel		
1958	7.56	3.78	-------	3.78	3.78
1959	1.12	.56	.50	.06	3.84
1960	2.80	1.40	1.20	.20	4.04
1961	2.24	1.12	.94	.18	4.22
1962	1.40	.70	.61	.09	4.31
1963	1.40	.70	.59	.11	4.42
1964	1.40	.70	.57	.13	4.55
1965	1.40	.70	.55	.15	4.70
1966	1.40	.70	.55	.15	4.85
1967	1.40	.70	.55	.15	5.00
1968	1.40	.70	.55	.15	5.15
1969	1.40	.70	.55	.15	5.30
1970	1.40	.70	.55	.15	5.45
1971	1.40	.70	.55	.15	5.60
1972	1.40	.70	.55	.15	5.75
1973	1.40	.70	.55	.15	5.90
1974	1.40	.70	.55	.15	6.05
1975	1.40	.70	.55	.15	6.20
1976	1.40	.70	.55	.15	6.35
1977	1.40	.70	.55	.15	6.50
1978	1.40	.70	.55	.15	6.65
1979	1.40	.70	.55	.15	6.80
1980	1.40	.70	.55	.15	6.95
1981	1.40	.70	.55	.15	7.10
1982	1.40	.70	.55	.15	7.25
1983	1.40	.70	.55	.15	7.40
1984	1.40	.70	.55	.15	7.55
1985	1.40	.70	.55	.15	7.70
1986	1.40	.70	.55	.15	7.85
1987	1.40	.70	.55	.15	8.00
1988	1.40	.70	.55	.15	8.15
1989	1.40	.70	.55	.15	8.30
1990	1.40	.70	.55	.15	8.45
1991	1.40	.70	.55	.15	8.60
1992	1.40	.70	.55	.15	8.75
1993	1.40	.70	.55	.15	8.90
1994	1.40	.70	.55	.15	9.05
1995	1.40	.70	.55	.15	9.20
1996	1.40	.70	.55	.15	9.35
1997	-------	-------	8.35	8.35	6.00
	62.72	31.36	25.36	6.00	-------

ANNEX "B"

MEMORANDUM

Part I—Description of the Facility

1. *Site*

The proposed reactor is to be located west of Boston at the Watertown Arsenal, Watertown, Massachusetts. The nearest property line will be 100 feet from the reactor building. State-owned land prevents private development within 500 feet of the reactor. There are 40 residences within 1,000 feet. The arsenal is located in a rather heavily populated residential and industrial neighborhood.

2. *Reactor*

The proposed facility is a 1,000-kilowatt pool-type research reactor. The reactor will be water moderated and beryllium oxide or graphite reflected, and will be fueled with conventional MTR-type fuel elements each containing 140 grams of uranium-235. Control will be by three boron carbide shim-safety rods each worth approximately four per cent in reactivity. Fine control will be accomplished by a regulating rod with six-tenths of one per cent reactivity.

3. *Experimental Facilities*

Experimental facilities include eight beam tubes each six inches in diameter emerging

from the pool at the main floor level and two pneumatic tube facilities two inches in diameter. Provision has been made to add twelve more beam tubes, a six-inch diameter through tube, and two additional two-inch diameter pneumatic tubes. Horizontal beam tubes will emerge from the pool structure at the main floor level and slanting beam tubes at the level of the first balcony surrounding the pool. The second balcony, at the level of the top of the pool, will be used for fuel handling and will support the control room.

4. *Containment Building*

The cylindrical reactor containment building will be 80 feet in diameter and extend approximately 60 feet above and 15 feet below ground level. A gamma irradiation facility will be located in the basement area under the pool. Concrete-walled rooms for mechanical equipment and storage of radioactive materials will also be located in the basement. The welded steel plate containment shell will be lined with 2 feet of concrete to the level of the second balcony, about 27 feet above ground. It will be designed to an internal static pressure of 1.5 pounds per square inch gauge and to a leakage rate of 2 percent per day for each pound per square inch of overpressure. The building will be air-conditioned.

Part II—Hazards Evaluation

1. *General Considerations*

The reactor is to be of the pool type using standard MTR-type fuel elements. The characteristics of this type of reactor are well known and have been demonstrated by many years of operation without the development of any serious safety problems. The design of this reactor differs primarily from that of other pool-type reactors in two respects. First, the core will be stationary in the pool rather than being mounted on a traveling bridge, and, second, there exists a large number of neutron beam tubes penetrating the pool wall. The former enhances safety since it minimizes the amount of core handling. The latter introduces a potential hazard in that more facilities are available to affect reactivity. However, these effects appear to be small and no significant new safety problems are expected.

2. *Safety Considerations*

Temperatures and void coefficients of reactivity, overall stability characteristics and other operating parameters of the reactor have been thoroughly studied and their safety manifested in other similar reactors. The reactor has no experimental facilities which enter the core, thereby minimizing the effect experiments will have on the characteristics of the core.

The accident considered to be the maximum credible involves an instantaneous step addition of 2 percent reactivity. The applicant has indicated that the instantaneous flooding of all the beam holes would lead to a reactivity increase of approximately this amount. Based on Borax-I experiments, the reactor would shut itself down by water expulsion, with neither melting of the fuel nor aluminum-water reaction and, therefore, would not be expected to release fission products from the core.

Because of the location of the reactor in an area of high population density, it was nevertheless considered desirable to analyze a major release of fission products to the container and their subsequent leakage therefrom, even though no credible means for such a release can be postulated. According to calculations submitted by the applicant, a release to the containment building of 25 percent of the volatile fission products after operation at one megawatt for an infinite period of time would result in a dose at the nearest boundary of less than five roentgens in the first hour by direct and scattered gamma radiation from the fission products contained in the shell. The results of leakage from the containment building of these fission products following this release were also considered by the applicant. At the specified design leakage rate of 2 percent per day, doses at the site boundary would be less than five roentgens in the first hour by external radiation from airborne and deposited fission products, and less than 400 microcuries of iodine-131 would be inhaled by a person at that location during this time, as a result of such leakage. In view of the numerous conservative assumptions that have been made in these calculations, it appears that ample time would be available to take steps necessary to minimize exposures.

Though no means for causing such an event is believed possible, the applicant has illustrated the margin of safety of the containment design by considering the consequences of the energy release associated with the reaction with water of 25 per cent of the aluminum in the core, and the burning of the resulting hydrogen, combined with a 135-megawatt-second nuclear excursion. This energy release was found to result in a static pressure rise of 1.15 pounds per square inch in the containment building. Since the building has been designed to a pressure rise of 1.5 pounds per square inch, with a factor of safety of three on the ultimate tensile strength, no breaching of the shell is expected to result from even this accident. Ventilation will be provided to the extent of six air changes per hour. In the event of a significant release of fission products, the dose rate to persons inside the building would be extremely high and could become so to persons outside if the ventilation system were not properly sealed. Detectors in the ventilation system are provided to initiate a closing of this system to prevent undesirable releases.

3. *Summary*

The primary features concerning the safety of this reactor are:

1. The reactor is of the pool type and uses standard fuel elements. Extensive favorable experience has been had in operating similar reactors.

2. The reactor will be housed in an essentially gas-tight containment building.

3. The reactor will be located in a densely populated area at a distance of approximately 100 feet from the nearest site boundary.

The applicant has shown that even the contained incredible accident will not seriously endanger the safety of the public either by direct radiation from the shell or by subsequent leakage of fission products from the building at permissible rates.

Based on information contained in the application, it is concluded that there is reasonable assurance that a facility of the general type proposed can be constructed and operated at the proposed location without undue risk to the health and safety of the public.

Before issuance of a license to operate this reactor, a review will be made of the final reactor design, plant operating and supervisory procedures, accident analysis, emergency plans, and other relevant safety information, to determine whether the reactor as constructed can be operated without endangering the health and safety of the public.

Part III—Technical Qualifications

The Ordnance Materials Research Office, Watertown Arsenal, was established by the Office Chief of Ordnance, U. S. Army, in February 1954 and has responsibility for administration and execution of the Materials Research Program of the Ordnance Corps, for coordination and preparation of materials specifications, and for conducting special materials studies. Basic research studies are conducted within the Ordnance Materials Research Office by the Materials Research Laboratory of the Research Operations Division. It is the Materials Research Laboratory which will primarily use the proposed reactor in its research program. Personnel to be associated with the proposed reactor have had broad and varied experience at a number of installations devoted to nuclear research and technology.

Part IV—Industrial Qualifications

Unobligated funds are available and allotted to this project under Department of Army Research and Development Appropriation 21X2040 for installation of the proposed reactor.

Part V—Conclusions

Based upon the above considerations, it is concluded that:

a. There is reasonable assurance that a facility of the general type proposed can be constructed and operated at the proposed site without undue risk to the health and safety of the public.

b. The applicant is technically and financially qualified to engage in the proposed activities.

For the Division of Civilian Application.

FRANK K. PITTMAN,
Acting Director.

SEPTEMBER 9, 1957.

[F. R. Doc. 57-7589; Filed, Sept. 16, 1957; 8:45 a. m.]

[Docket No. 50-13]

BABCOCK & WILCOX CO.

NOTICE OF PROPOSED ISSUANCE OF CONSTRUCTION PERMIT

Please take notice that the Atomic Energy Commission proposes to issue a construction permit to The Babcock & Wilcox Company substantially in the form set forth in Annex "A" below unless on or before 15 days after the filing of this notice with the Federal Register Division a request for a formal hearing is filed with the Commission as provided by § 2.102 (b) of the Commission's rules of practice (10 CFR Part 2). There is set forth below as Annex "B" a memorandum submitted by the Division of Civilian Application which summarizes the principal factors considered in reviewing the application for license. For further details see the application for license at the Commission's Public Document Room, 1717 H Street, NW., Washington, D. C.

Dated at Washington, D. C., this 9th day of September 1957.

For the Atomic Energy Commission.

FRANK K. PITTMAN,
Acting Director,
Division of Civilian Application.

ANNEX "A"

CONSTRUCTION PERMIT

The Babcock & Wilcox Company (hereinafter referred to as "Babcock & Wilcox"), on February 1, 1957, April 5, 1957, and June 3, 1957, filed amendments to its critical experiment facility license application requesting a Class 104 license defined in § 50.21 of Part 50, "Licensing of Production and Utilization Facilities", Title 10, Chapter I, CFR, to construct and operate a second critical experiment facility (hereinafter referred to as "the

facility"). The amendments dated February 1, 1957, April 5, 1957, and June 3, 1957, are hereinafter referred to as "the application".

Previously on March 20, 1957, the Commission issued License No. CX-1 to Babcock & Wilcox authorizing operation of its critical experiment facility and performance of critical experiments related to the design of the Consolidated Edison power reactor. Notice of the issuance of this license was published in the FEDERAL REGISTER on March 27, 1957, 22 F. R. 2018.

The building housing the facility will cover an area of about 4,000 feet and will be contiguous to the presently licensed critical experiment facility but separated by a 5 foot concrete wall. The building will include on the first floor a reinforced concrete bay where critical experiments will be conducted, a control room, an electronic shop, two offices and a chemistry laboratory. Located on the lower floor of the facility will be a subassembly room, a change room, a physics laboratory and three offices.

The Atomic Energy Commission (hereinafter "the Commission") has found that:

A. The facility will be a utilization facility as defined in the Commission's regulations contained in Title 10, Chapter I, CFR, Part 50, "Licensing of Production and Utilization Facilities".

B. Babcock & Wilcox proposes to utilize the facility in the conduct of research and development activities of the types specified in section 31 of the Atomic Energy Act of 1954.

C. Babcock & Wilcox is financially qualified to construct and operate the facility in accordance with the regulations contained in Title 10, Chapter I, CFR.

D. Babcock & Wilcox is technically qualified to design and construct the facility.

E. Babcock & Wilcox has submitted sufficient information to provide reasonable assurance that a facility of the type proposed can be constructed and operated at the proposed location without undue risk to the health and safety of the public and that additional information required to complete its application will be supplied.

F. The issuance of a construction permit to Babcock & Wilcox will not be inimical to the common defense and security and to the health and safety of the public.

Pursuant to the Atomic Energy Act of 1954 (hereinafter referred to as "the act") and Title 10, CFR, Chapter I, Part 50, "Licensing of Production and Utilization Facilities", the Commission hereby issues a construction permit to Babcock & Wilcox to construct the facility as a utilization facility. This permit shall be deemed to contain and be subject to the conditions specified in §§ 50.54 and 50.55 of said regulations; is subject to all applicable provisions of the act and rules, regulations and orders of the Commission now or hereafter in effect; and is subject to any additional conditions specified or incorporated below:

A. The earliest completion date of the facility is October 1, 1957. The latest date for completion of the facility is June 1, 1958. The term "completion date" as used herein means the date on which construction of the facility is completed except for the introduction of the fuel material for the initial critical experiment.

B. The site proposed for the location of the facility is the location near Lynchburg, Virginia, specified in the application.

C. The type of facility authorized for construction is a critical experiment facility designed primarily for conducting critical experiments for a pressurized water reactor at near zero power levels.

D. At such time as this construction permit is converted into a license to operate the facility, such license will incorporate—as one of its conditions—a requirement that no critical experiment may be conducted in the facility until a description of the experiment and a Hazards Summary Report shall have been submitted to the Commission and the Commission shall have specifically authorized the experimental activity.

This permit is subject to submittal by Babcock & Wilcox to the Commission (by proposed amendment of the application) of additional information required to complete its Hazards Summary Report and a finding by the Commission that the final design provides reasonable assurance that the health and safety of the public will not be endangered by operation of the facility in accordance with the specified procedures.

Upon completion (as defined in Paragraph "A" above) of the construction of the facility in accordance with the terms and conditions of this permit, upon the filing of any additional information needed to bring the application up to date, and upon finding that the facility authorized has been constructed in conformity with the application as amended and in conformity with the provisions of the act and of the rules and regulations of the Commission, and in the absence of any good cause being shown to the Commission why the granting of a license would not be in accordance with the provisions of the act, the Commission will issue a Class 104 license to Babcock & Wilcox pursuant to section 104c of the act, which license shall authorize Babcock & Wilcox to operate the facility.

For the Atomic Energy Commission.

———— ————,
Director,
Division of Civilian Application.

ANNEX "B"

MEMORANDUM

Introduction

On February 1, April 5, and June 3, 1957, The Babcock & Wilcox Company filed amendments to its critical experiment facility license application requesting a facility license authorizing construction and operation of an addition to its existing critical experiments facility. Previously, on March 20, 1957, the Commission issued license number CX-1 to The Babcock & Wilcox Company authorizing operation of its critical experiment facility, and the performance therein of critical experiments related to the design of the Consolidated Edison power reactor. Notice of the issuance of this license was published in the FEDERAL REGISTER on March 27, 1957, 22 F. R. 2018.

Description of Site and Facilities

The site is described in the Notice of Proposed Issuance of Facility License to The Babcock & Wilcox Company previously published in the FEDERAL REGISTER on March 6, 1957, 22 F. R. 1419.

The proposed addition will cover an area of about 4,000 square feet, and will be contiguous to the presently licensed critical experiment facility but separated by a 5-foot concrete wall which the applicant states is of sufficient thickness to avoid interaction between experiments. The addition includes a reinforced concrete bay where critical experiments will be carried out, a control room, electronic shop, offices, and chemistry laboratory on the first floor. Located on the lower floor will be a subassembly room, change room, physics laboratory, and other offices. The degree of containment afforded in the bay area is stated to be equivalent to that of the existing critical assembly bay which permits a leakage of only 2 percent of its contents per 24 hours under normal barometric pressure fluctuations.

Description of Initial Experiments

The initial experiments planned to be performed in this addition to the existing critical facility comprise an investigation of the proposed fuel assembly and core for the Nuclear Merchant Ship Reactor. The experiments will be similar to those presently being conducted in the existing critical facility for the Consolidated Edison Power Reactor. Approximately 10 to 15 thousand kilograms of uranium, enriched to between 1½ percent and 4 percent in U-235, will be used in the experiments. The uranium will be in the form of UO_2, which will be contained in stainless steel tubes about ½ inch in diameter and 5½ feet long. The critical assembly will normally be operated at fractions of a watt with an upper limit on power level of 10 watts, and occasionally with an upper power limit of 1,000 watts (for short intervals).

Poison-type safety rods will be used. The applicant states that the same controls will be exercised and the same safety procedures will be used as for the Consolidated Edison critical experiments. The amount of net excess reactivity available in the Consolidated Edison experiments does not exceed 3 percent and sufficient control is available to shut down the reactor even if two rods fail to be inserted.

Hazards Evaluation

For the initial critical experiments to be performed in this facility no unusual precautions appear necessary with regard to earthquake, storm or flood. No hazards are expected to result from normal operation.

The applicant states that the public hazards from the maximum credible accident in the new facility would be of no greater severity than those postulated for the existing licensed critical experiment facility. In the existing licensed facility, the maximum credible accident was assumed to result from an instantaneous addition of 2 percent excess reactivity, leading to the liberation of 87 Mw-sec of energy. The excursion was terminated by expulsion of water from the core, and was calculated to produce 4×10^5 curies of fission products. The integrated dose to a person located at the nearest site boundary for 50 days under the most adverse weather conditions was only 86 milliroentgens, which is less than that permitted under such circumstances by the Commission's regulations "Standards for Protection Against Radiation" (10 CFR Part 20).

Summary

This application has been reviewed for the purpose of determining whether, based on information contained in the application and taking into account the experience gained from the design and operation of the applicant's existing licensed critical facility, there is reasonable assurance that an addition to the existing critical facility of the general type proposed can be constructed and operated at the proposed location without undue risk to the health and safety of the public.

The applicant has evaluated the hazards to the public associated with construction and operation of the proposed critical experiment facility addition in relation to the existing licensed critical facility and has concluded that the risk to the public health and safety will not exceed that for the existing licensed facility. We concur in this conclusion. Before the Commission will consider authorizing performance of any specific experiments in the proposed facility addition, however, it will be necessary for the applicant to submit a complete hazards evaluation on the experiments. Such evaluations must demonstrate that performance of the experiments in the proposed facility will not endanger the health and safety of the public.

Technical Qualifications

The proposed activities will be conducted by the Atomic Energy Division of The Babcock & Wilcox Company. The education,

training, and experience of the personnel responsible for the design and operation of the facility are considered adequate to insure safe operation.

Financial Qualifications

The Babcock & Wilcox Company's net income after taxes has increased $4.3 million since 1952. In 1956 such income amounted to $14.1 million. At the end of 1956 current assets totaled $148.2 million compared with $41.4 million for current liabilities—a current ratio of 3.5 to 1. The long-term debt at the end of 1956 totaled $32 million maturing in 1974. Of the company's total assets of $200.7 million, $126.2 million or approximately 63 percent represented stockholders' equity.

Conclusions

Based on the above considerations, it is concluded that:

a. There is reasonable assurance that an addition to the existing Babcock & Wilcox Critical Experimental Facility of the general type proposed can be constructed and operated at the proposed site without undue risk to the health and safety of the public.

b. The applicant is technically and financially qualified to engage in the proposed activities.

For the Division of Civilian Application.

FRANK K. PITTMAN,
Acting Director.

SEPTEMBER 9, 1957.

[F. R. Doc. 57-7590; Filed, Sept. 16, 1957; 8:45 a. m.]

HOUSING AND HOME FINANCE AGENCY

Public Housing Administration

DESCRIPTION OF AGENCY AND PROGRAMS

LIST OF OFFICIALS

Section I, Description of Agency and Programs, is amended as follows:

Effective July 31, 1957, paragraph F is amended by deleting from the list of officials designated therein under the San Francisco Regional Office "2. James E. McFeeley, Regional Attorney" and by inserting in place thereof "2. Louis B. Ambler, Jr., Assistant Director for Development."

Date approved: September 4, 1957.

[SEAL] CHARLES E. SLUSSER,
Commissioner.

[F. R. Doc. 57-7601; Filed, Sept. 16, 1957; 8:48 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 11973, etc.; FCC 57M-840]

PALM SPRINGS TRANSLATOR STATION, INC.

ORDER SCHEDULING PREHEARING CONFERENCE

In re applications of Palm Springs Translator Station, Inc., Palm Springs, California; Docket No. 11973, File No. BPTT-12; Palm Springs Translator Station, Inc., Palm Springs, California; Docket No. 11974, File No. BPTT-13; for construction permits for new television broadcast translator stations, Palm Springs Translator Station, Inc., Palm Springs, California; Docket No. 12149, File No. BMPTT-5; Palm Springs Translator Station, Inc., Palm Springs, California; Docket No. 12150, File No. BMPTT-6; for modification of construction permits to increase effective radiated power and to make changes in antenna system. Palm Springs Translator Station, Inc., Palm Springs, California; Docket No. 12151, File No. BLTT-11; Palm Springs Translator Station, Inc., Palm Springs, California; Docket No. 12152, File No. BLTT-12; for television broadcast translator station licenses to cover translator stations K-70-AL and K-73-AD, Palm Springs, California.

The Hearing Examiner having under consideration informal agreement of the parties concerning date of pre-hearing conference in the above-entitled proceeding:

It is ordered, This 10th day of September 1957, that all parties, or their attorneys, are directed to appear for a prehearing conference, pursuant to the provisions of § 1.813 of the Commission's rules, at the Commission's offices in Washington, D. C., at 10:00 a. m., September 17, 1957.

Released: September 11, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F. R. Doc. 57-7616; Filed, Sept. 16, 1957; 8:50 a. m.]

[Docket No. 12079 etc.; FCC 57M-841]

JACK A. BURNETT ET AL.

ORDER POSTPONING HEARING AND SCHEDULING PREHEARING CONFERENCE

In re applications of Jack A. Burnett, Ogden, Utah; Docket No. 12079, File No. BPCT-2255; United Telecasting and Radio Company, Ogden, Utah; Docket No. 12080, File No. BPCT-2270; Granite District Radio Broadcasting Company, Ogden, Utah; Docket No. 12081, File No. BPCT-2274; for construction permits for new television broadcast stations.

It is ordered, This 10th day of September, 1957, that formal hearing date now scheduled as September 26, 1957, in the above-entitled proceeding is postponed indefinitely and that on that date a prehearing conference will be held.

Released: September 11, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F. R. Doc. 57-7617; Filed, Sept. 16, 1957; 8:50 a. m.]

[Docket No. 12097; FCC 57M-822]

JACKSON COUNTY BROADCASTING CO.

ORDER CONTINUING HEARING

In re application of Nathan L. Goetz, Robert Goetz and Merlin J. Meythaler, d/b as Jackson County Broadcasting Company, Maquoketa, Iowa; Docket No. 12097, File No. BP-10882; for construction permit.

The Hearing Examiner having under consideration a petition filed today by Jackson County Broadcasting Company, for extension of the time for the exchange of exhibits now due September 10, 1957, and for continuance of the hearing now scheduled for October 1, 1957, pending action by the Commission on certain applications, the consolidation of which for hearing with petitioner's application might change the issues;

It appearing that counsel for the other parties to the instant proceeding have no objection to a grant of the petition;

It is ordered, This 5th day of September, 1957, that the petition is granted, and that the time for the exchange of exhibits is extended, and the date for the hearing is continued, pending Commission action upon the applications of Parks Robinson (File No. BP-11060), Wisconsin Valley Television Corporation (WSAU) (File No. BP-11206), and Kankakee Daily Journal Company (WKAN) (File No. BP-11287).

Released: September 6, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F. R. Doc. 57-7618; Filed, Sept. 16, 1957; 8:51 a. m.]

[Docket No. 12118, etc.; FCC 57M-835]

TELEVISION BROADCASTERS, INC., ET AL.

ORDER CONTINUING HEARING

In re applications of Television Broadcasters, Inc., Beaumont, Texas; Docket No. 12118, File No. BMPCT-4681; for modification of construction permit. WDSU Broadcasting Corporation, Port Arthur, Texas; Docket No. 12119, File No. BPCT-2300; KPBX Broadcasting Company, Beaumont, Texas; Docket No. 12120, File No. BPCT-2313; Brown Telecasters, Inc., Beaumont, Texas; Docket No. 12121, File No. BPCT-2327; for construction permits for new television broadcast stations.

It is ordered, This 10th day of September, 1957, that further prehearing conference will be held in the above-entitled matter commencing at 2:00 p. m., September 24, 1957, in the Commission's offices at Washington, D. C.; and

It is further ordered, That the parties shall mutually exchange their exhibits comprising their direct cases on or before November 4, 1957; and

It is further ordered, That the hearing in this matter heretofore scheduled to commence on September 12, 1957, is hereby rescheduled to commence at 10:00 a. m., November 12, 1957, in the Commission's offices at Washington, D. C.

Released: September 11, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F. R. Doc. 57-7619; Filed, Sept. 16, 1957; 8:51 a. m.]

[Docket Nos. 12144, 12145; FCC 57M-836]

BEEHIVE TELECASTING CORP. AND JACK A. BURNETT

ORDER SCHEDULING HEARING

In re applications of Beehive Telecasting Corporation, Provo, Utah; Docket No. 12144 File No. BPCT-2051; Jack A. Burnett, Provo, Utah; Docket No. 12145, File No. BPCT-2264; for construction permits for new television broadcast stations.

It is ordered, This 10th day of September 1957, that Thomas H. Donahue will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on October 21, 1957, in Washington, D. C.

Released: September 11, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F. R. Doc. 57-7620; Filed, Sept. 16, 1957; 8:51 a. m.]

[Docket No. 12146 etc.; FCC 57M-837]

UNITED BROADCASTING CO., INC., ET AL.

ORDER SCHEDULING HEARING

In re applications of United Broadcasting Company, Inc., Wilmington, North Carolina; Docket No. 12146, File No. BPCT-2169; Carolina Broadcasting System, Inc., Wilmington, North Carolina; Docket No. 12147, File No. BPCT-2191; New Hanover Broadcasting Company, Wilmington, North Carolina; Docket No. 12148, File No. BPCT-2310; for Construction Permits for New television Broadcast Stations.

It is ordered, This 10th day of September 1957, that J. D. Bond will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on October 21, 1957, in Washington, D. C.

Released: September 11, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F. R. Doc. 57-7621; Filed, Sept. 16, 1957; 8:51 a. m.]

[Docket Nos. 12153, 12154; FCC 57M-838]

MAX M. LEON, INC. AND INDEPENDENCE BROADCASTING CO.

ORDER SCHEDULING HEARING

In re applications of Max M. Leon, Inc., Philadelphia, Pennsylvania; Docket No. 12153, File No. BPH-2230; Independence Broadcasting Co., Philadelphia, Pennsylvania; Docket No. 12154, File No. BPH-2235; for construction permits.

It is ordered, This 10th day of September 1957, that Charles J. Frederick will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on November 7, 1957, in Washington, D. C.

Released: September 11, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F. R. Doc. 57-7622; Filed, Sept. 16, 1957; 8:51 a. m.]

[Docket No. 12155, etc.; FCC 57M-839]

ORANGE COUNTY RADIOTELEPHONE SERVICE ET AL.

ORDER SCHEDULING HEARING

In re applications of Benjamin H. Warner, Jr. and Vernon C. Starr, d/b as Orange County Radiotelephone Service, Santa Ana, California; Docket No. 12155, File No. 860-C2-P-56; Farrell A. McKean, d/b as Business & Professional Telephone Exchanges, Los Angeles, California; Docket No. 12156, File No. 1430-C2-P-56; Donald M. Rice, d/b as Tri-City Radio Dispatch Company, San Bernardino, California; Docket No. 12157, File No. 1931-C2-P-56; Homer N. Harris, d/b as Industrial Communications Systems, Los Angeles, California; Docket No. 12158, File No. 2126-C2-P-56 and File No. 2127/2128-C1-P-56; Pomona Radio Dispatch Corporation, Pomona, California; Docket No. 12159, File No. 481-C2-P-57; for construction permits in the Domestic Public Land Mobile Radio Service.

It is ordered, This 10th day of September 1957, that Annie Neal Huntting will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on November 12, 1957, in Washington, D. C.

Released: September 11, 1957.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F. R. Doc. 57-7623; Filed, Sept. 16, 1957; 8:51 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-12875]

COLORADO INTERSTATE GAS CO.

NOTICE POSTPONING HEARING

SEPTEMBER 12, 1957.

Take notice that, a Joint Petition to Intervene having been filed on September 9, 1957, in the above-designated proceeding by National Coal Association, United Mine Workers of America and Fuels Research Council, Inc., the hearing now scheduled to commence on September 20, 1957, is hereby postponed to a date to be hereafter fixed by further notice.

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 57-7609; Filed, Sept. 16, 1957; 8:49 a. m.]

[Project No. 2216]

POWER AUTHORITY OF THE STATE OF NEW YORK

ORDER FIXING HEARING

SEPTEMBER 12, 1957.

Application was filed August 20, 1956, which has been amended and supplemented by the Power Authority of the State of New York for a license pursuant to the provisions of the Federal Power Act (16 U. S. C. 791a), and the provisions of Public Law 85-159, 85th Congress, approved August 21, 1957 (71 Stat. 401), for a proposed hydroelectric project on the Niagara River in Niagara County, New York.

There has been opposition by Interveners, City of Niagara Falls, Town of Lewiston, and County of Niagara, New York, concerning the water conduits and the reservoir area as proposed by Applicant. In addition one Intervener, the International Paper Company, has requested opportunity to present evidence and argument in support of its claim to the water rights involved in Federal Power Commission v. Niagara Mohawk Power Corp., 347 U. S. 239.

The Commission finds: It is appropriate and in the public interest that a public hearing be held concerning the aforesaid water conduits and reservoir for Project No. 2216, and the aforesaid water rights claim by the International Paper Company.

The Commission orders: Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act, particularly Sections 4 and 308 thereof, by Public Law 85-159, 85th Congress, and the Commission's Rules of Practice and Procedure, a public hearing shall be held commencing on October 1, 1957, at 10:00 a. m., e. d. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington 25, D. C., respecting the aforesaid issues raised by City of Niagara Falls, Town of Lewiston, County of Niagara, and International Paper Company concerning the application for license for Project No. 2216.

By the Commission.

[SEAL] MICHAEL J. FARRELL,
Acting Secretary.

[F. R. Doc. 57-7610; Filed, Sept. 16, 1957; 8:49 a. m.]